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VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2011

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Mr. LEAHY, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany S. 1925]

The Committee on the Judiciary, to which was referred the bill (S. 1925), to reauthorize and improve the Violence Against Women Act of 1994, and for other purposes, having considered the same, reports favorably thereon, with amendments, and recommends that the bill, as amended, do pass.

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I. BACKGROUND AND PURPOSE OF THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2011

A. BACKGROUND

Over the last 18 years, the Violence Against Women Act (VAWA) has provided life-saving assistance to hundreds of thousands of

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women, men, and children. Originally passed by Congress in 1994 as part of the Violent Crime Control and Law Enforcement Act of 1994, this landmark, bipartisan legislation was a response to the prevalence of domestic and sexual violence and the significant impact of such violence in the lives of women. The legislation offered a comprehensive approach to reducing this violence and marked a national commitment to reverse the legacy of laws and social norms that served to excuse, and even justify, violence against women. The Violence Against Women Reauthorization Act of 2011 renews that commitment and further strengthens our national efforts to stop domestic violence, dating violence, sexual assault, and stalking in all their forms.

Championed by then-Senator Joseph Biden and Senator Orrin Hatch, the original Violence Against Women Act was supported by a broad coalition of experts and advocates including law enforcement officers, prosecutors, judges, victim service providers, faith leaders, health care professionals, and survivors. The law has been reauthorized twice—in 2000 and 2005—with unanimous Senate approval and overwhelming support from States and local communities.

With each reauthorization, VAWA has been improved in meaningful ways to reflect a growing understanding of how best to meet the varied and changing needs of survivors. Among other significant changes, the reauthorization of VAWA in 2000 improved the law with respect to the needs of battered immigrants, older victims, and victims with disabilities. In 2005, the reauthorization included a new title to address the epidemic of violence experienced by Native American and Alaska Native women. It placed an emphasis on providing access to services for victims of underserved groups. Both reauthorizations created new programs and extended protections to additional victims. They both strengthened victim services and enhanced judicial and law enforcement tools to combat domestic violence, dating violence, sexual assault, and stalking.

The impact of the Violence Against Women Act has been remarkable. The law's emphasis on a coordinated community response—which brings together law enforcement, the courts, and victim services—resulted in a paradigm shift in the way communities address violence against women. The Act improved the criminal justice system's ability to keep victims safe and hold perpetrators accountable. It provided victims with critical services such as transitional housing, legal assistance, and supervised visitation services. As a result of this historic legislation, every State enacted laws to make stalking a crime and to strengthen criminal rape statutes, and the annual incidence of domestic violence has decreased by 53 percent.[1]

Even with this progress, however, domestic and sexual violence remain a significant and widespread problem. According to the recent National Intimate Partner and Sexual Violence Survey conducted by the Centers for Disease Control and Prevention, 24 people per minute are victims of rape, physical violence, or stalking by an intimate partner in the United States.[2] Over the course of a

[1] Shannan Catalano, et al., Female Victims of Violence, U.S. Department of Justice, Bureau of Justice Statistics (September 2009), retrieved from http://www.ojp.usdoj.gov/bjs/intimate/ipv.htm. (Decrease is based on data collected between 1993 and 2008).

[2] National Intimate Partner and Sexual Violence Survey, Centers for Disease Control and Prevention (December 2011), retrieved from http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf (hereafter, NISVS survey).

year, that equals more than 12 million women and men. Nearly one in five women and one in 71 men have been raped in their lifetime.[3] Nearly one in four women and one in seven men report experiencing severe physical violence by an intimate partner,[4] and 45 percent of the women killed in the United States die at the hands of an intimate partner.[5]

Some racial and ethnic minority communities experience much higher rates of violence than the general population, particularly women who identify as multiracial non-Hispanic or American Indian/Alaska Native. Approximately half of all women who identified as multiracial or Native American have been victims of domestic violence, compared to one-third of white women. One in three Native American and multiracial women has been raped, compared to one in four white women.[6] In 2007, black women were four times more likely than white women to be murdered by a boyfriend or girlfriend and twice as likely to be killed by a spouse.[7]

B. KEY PROVISIONS OF THE LEGISLATION

The Violence Against Women Reauthorization Act of 2011, like the two prior reauthorizations, builds on the success of existing law and seeks to address remaining unmet needs. The changes proposed in S. 1925 are the result of substantial input from professionals working with the survivors of domestic and sexual violence around the country, including law enforcement officers, victim service providers, judges, and health care professionals.

In developing S. 1925, the Committee majority worked to continue the tradition of strong bipartisan support for the Violence Against Women Act. The bill was introduced with a Republican original cosponsor, and additional Republican cosponsors joined soon after. These cosponsors were involved in extensive discussions about the content of the bill in the months preceding and following its introduction, and their input contributed significantly to the bill. The Committee majority also made significant efforts to work with the Committee minority to reach consensus on the bill.[8] As

[3] NISVS survey, *supra* note 2.
[4] *Id.*
[5] Catalano, et al., Female Victims of Violence, *supra* note 1.
[6] NISVS survey, *supra* note 2.
[7] Catalano, et al., Female Victims of Violence, *supra* note 1.
[8] Contrary to the assertions in the Minority Views of Senators Grassley, Hatch, Kyl, and Cornyn, Senator Leahy's outreach to the Committee minority about this bill was sustained and substantive. The Chairman's staff met with Committee minority staff repeatedly before introduction of the bill and provided minority staff with draft legislative language more than a month before the bill was introduced. The introduced bill included several major changes from the circulated draft to address concerns raised by the minority, including, among others, removal of a provision that incorporated guidance from the Department of Education on standards of proof in university disciplinary proceedings. The bill also included accountability provisions very similar to those proposed by Senator Grassley for the Trafficking Victims Protection Reauthorization Act and the Second Chance Reauthorization Act.

The Chairman's outreach continued after introduction of S. 1925. The Chairman's staff continued to meet repeatedly with Committee minority staff to discuss the bill. The substitute amendment adopted by the Committee at the Judiciary Committee's Executive Business meeting on February 2, 2012, included several additional significant modifications requested by Republican Senators. Those included the elimination of many significant provisions intended to assist immigrant victims of domestic and sexual violence to which members of the Committee minority raised objections, modifications of grant conditions to address concerns, limits on enforcement of a non-discrimination provision, and modification of the definition of "rural state" to ensure that states represented by several members of the Committee minority would be included. Senator Grassley recognized the work that the Committee majority and minority did together on S. 1925, saying in the Committee's Executive Business Meeting on January 26, 2012, "Now, I

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with previous reauthorizations, the Committee also worked closely with the Committee on Health, Education, Labor, Pensions; the Committee on Indian Affairs; the Committee on Finance; and the Committee on Banking, Housing and Urban Affairs to develop sections of the bill relevant to their jurisdiction.

In addition to strengthening key programs as highlighted below, S. 1925 is responsive to the current economic climate. It consolidates 13 programs into only four in an effort to reduce duplication and bureaucratic barriers for grantees. This consolidation will allow the Federal Government to streamline application and administrative processes to make grant management more efficient. It also cuts the authorization level for VAWA by more than $135 million a year ($682.5 million over the authorization period), which amounts to a decrease of 17 percent from the 2005 reauthorization. The authorization levels for each existing VAWA-funded grant program will either decrease or remain flat. No program receives an increase in authorization levels, and the legislation creates only one new program, which will support tribal efforts to combat domestic violence and is authorized at $5 million.

Among the most significant changes proposed by S.1925 is an increased emphasis on preventing and responding to sexual assault. Although sexual assault has been one of the core crimes addressed by VAWA since its passage in 1994, its incidence has remained remarkably high. Yet, reporting, prosecution, and conviction rates for sexual assault are among the lowest for any violent crime. In recognition of this ongoing problem, the reauthorization includes new purpose areas in several grant programs that are more directly responsive to the needs of sexual assault survivors. It includes training to strengthen the law enforcement and forensic response to these crimes in order to build strong cases that result in convictions. Finally, it encourages jurisdictions to evaluate their rape kit inventory and reduce existing backlogs.

The legislation as reported also adds a new requirement that at least 20 percent of funds from the STOP (Services, Training, Officers, and Prosecutors) Violence Against Women Formula Grant program and 25 percent of funds from the Grants to Encourage Arrest Policies and Enforce Protection Orders (Arrest) program be directed to programs that meaningfully address the problem of sexual assault. The Committee, in acknowledgement of the administrative adjustments that States may need to make to meet this new requirement, has provided a two-year phase-in period to comply. Furthermore, the Committee urges the Department of Justice to consider the circumstances faced by individual States, such as frontier States with widely dispersed populations, rural States, or States with other unique challenges in implementing this new provision.

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have to compliment the Chairman that in some areas there has been agreement reached, and I want to thank the Chairman for that agreement that has been reached." Transcript at 6–7.

During these extensive meetings and conversations, the Committee minority did not at any time provide the Committee majority with any suggested language or alternative provisions to address concerns prior to circulating its own complete substitute amendment, consisting of 171 pages, the evening before the Executive Business Meeting at which the Committee considered the bill. Republican Committee members and staff did not even mention the strong opposition to S. 1925's tribal provisions expressed in the Minority Views prior to the February 2, 2012 Executive Business meeting. Several questions about drafting were raised, and answered, but no major concerns were expressed about those provisions in the many preceding staff discussions.

Another significant aspect of this reauthorization is the continued effort to meet the needs of victims from communities who have difficulty accessing traditional services. A core principle of the original Violence Against Women Act was to make law enforcement, courts, and communities more responsive to the needs of domestic and sexual violence survivors who had long been neglected in the criminal justice system. The intimate nature of these crimes means that services may be more effective if they take into consideration the specific cultural traditions of the victim. Each VAWA reauthorization has included modifications to improve these efforts and more effectively address remaining unmet needs.

Among the steps taken in this reauthorization are changes to the definitions of "culturally specific services," "population specific services," and "underserved populations." These new definitions, applied through purpose areas and targeted funding streams throughout VAWA, will help to ensure that VAWA-funded programs provide a wider variety of services that address the needs of a diverse population of victims, including battered immigrants, racial, ethnic and religious minorities, and lesbian and gay victims. These updates are crucial in part because studies indicate that women of color are reluctant to turn to traditional domestic violence programs, and culturally specific programming may be more effective in meeting their needs. A recent National Institute of Justice study found that women of color may be less likely to receive all the services they need.[9] Just three out of 10 African American and Asian American women reported that their need to "talk to someone who understands my situation" was fully met, compared to eight out of 10 white women.

This legislation builds on the efforts of previous reauthorizations to better address the needs of male victims of domestic and sexual violence. While VAWA's focus on violence against women appropriately reflects the disproportionate number of women who experience severe forms of domestic and sexual violence, and the disproportionately severe effects often confronted by female victims, men are also victims of these crimes. One specific change in this area is the clarification that STOP formula funds may be used for programs aimed at supporting victims who have had difficulty accessing traditional services because of their sexual orientation or gender identity. Programs which primarily serve gay men, for example, have been denied access to STOP funding in the past because they do not predominantly address violence against women. The legislation also creates a new purpose area in STOP to allow funding to be used to support victims of sexual violence in prison, many of whom are men.

Senators Grassley, Hatch, Kyl, and Cornyn write in their Minority Views that the new provisions to ensure that services are available to all victims regardless of sexual orientation or gender identity are "a solution in search of a problem" and that more study is needed to determine whether additional access to services is needed. In fact, the experts and service providers who work with victims every day have made clear that access to services because

[9] Lyon, E., Bradshaw, J. & Menard, A., Meeting Survivors' Needs Through Non-residential Domestic Violence Services & Supports: Results of a Multi-state Study. University of Connecticut School of Social Work and National Resource Center on Domestic Violence (November 2011), at 108, retrieved from https://www.ncjrs.gov/pdffiles1/nij/grants/237328.pdf.

of sexual orientation or gender identity is a real and significant problem, and research backs up their position.

Studies have shown that lesbian, gay, bisexual, and transgendered victims experience domestic violence in 25–33 percent of relationships—the same rate as in the general population.[10] Recent studies show that these victims face obstacles when accessing services, however. For example, 45 percent of lesbian, gay, bisexual and transgendered victims were turned away when they sought help from a domestic violence shelter, according to a 2010 survey, and nearly 55 percent of those who sought protection orders were denied them.[11] A 2010 study found that many victim services providers lack services specific to lesbian, gay, bisexual, and transgender victims and have not received training in how to work with these victims.[12] Specialized services are particularly important for this population because reporting rates and prosecution rates are very low.[13]

Personal stories provided by victims of domestic and sexual violence make clear the need for access to services even more powerfully than statistics can. For instance, in one example provided by the Human Rights Campaign with personally identifiable information removed to protect the victim, Victor, a gay man, was abused by his partner, who on one occasion threatened to stab him with a screwdriver and on another wrapped a heavy chain around his fist and hit Victor in the face. Victor called the police, who said, "What would you like us to do? You're both male." He called a domestic violence hotline, but the person he spoke to on the hotline did not believe he was truly a victim and implied that he must be abusing his partner because he is male. In another case, Julie, a lesbian woman, was abused so severely that she was hospitalized and almost died from internal injuries. However, when she called a domestic violence hotline, the person she spoke to would not acknowledge that her partner was female. When she reached out to the facilitator of a support group for domestic violence victims, she was told that she would not "fit in" with the other group members, who were heterosexual. She went to a shelter but had to leave because other residents were so intolerant.[14] Other similar stories reinforce the reality that the studies and findings above make clear—there is a significant need for services for victims of domestic and sexual violence who are gay, lesbian, bisexual, and transgender.

These studies and examples demonstrate that action is needed to ensure that services are available for a vulnerable group of victims. The suggestion that a separate legislatively mandated study is required before responding to this need does not withstand scrutiny.

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[10] Why It Matters: Rethinking Victim Assistance for Lesbian, Gay, Bisexual, Transgender, and Queer Victims of Hate Violence & Intimate Partner Violence, National Center for Victims of Crime and National Coalition of Anti-Violence Programs (2010), at 5, retrieved from: http://www.avp.org/documents/WhyItMatters.pdf.

[11] Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Intimate Partner Violence, National Coalition of Anti-Violence Programs (2010), at 27–28, retrieved from: http://www.avp.org/documents/IPVReportfull-web.pdf.

[12] Why It Matters, at 10–12, *supra* note 10.

[13] The National Coalition of Anti-Violence Programs found in 2010 that only 7.1 percent of lesbian, gay, bisexual, and transgender victims called police in cases of domestic violence and that, in almost 30 percent of those cases, no arrest was made, with wrongful arrests made in many other cases. Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Intimate Partner Violence, at 31.

[14] *See* Appendix, Violence Against Women Reauthorization Act of 2011: LGBT Stories of Discrimination, Human Rights Campaign (2012).

In past reauthorizations of VAWA, the Act's programs have been expanded to address the needs of various communities, including older victims, youth, and rural communities, among others. Congress accepted the data and expert conclusions supporting the need for these programs and did not demand that new studies be commissioned and new obstacles overcome before services were provided to these important communities of victims. To demand more or different requirements before accepting very modest measures to ensure that services are available to another community in need would simply be unfair.

The legislation provides a uniform nondiscrimination provision that applies to all grant programs funded under VAWA. Currently, there are several different nondiscrimination protections that apply to VAWA programs due to the various statutes under which the grants were authorized. Some programs are authorized in the Omnibus Crime Control and Safe Streets Act of 1968, which contains its own nondiscrimination provision. Other VAWA programs are covered by Title VI of the Civil Rights Act of 1964, which is less expansive in terms of the classes of individuals that are protected from discrimination. This patchwork approach has caused confusion among grantees and does not guarantee adequate protection for all victims. By establishing a single nondiscrimination provision as a universal grant condition, S. 1925 will provide uniform protection to ensure that victims are not denied services on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, or disability. This provision is meant to codify and ensure consistency in civil rights protections among programs funded under VAWA.[15] Although the new civil rights grant provision lists "gender identity" as a separate protected class, nothing in this bill is intended to undermine protections that transgender victims of discrimination already enjoy under existing guarantees against discrimination on the basis of sex.

Another significant focus of this reauthorization of VAWA is the crisis of violence against women in tribal communities. These women face rates of domestic violence and sexual assault far higher than the national average. A regional survey conducted by University of Oklahoma researchers showed that nearly three out of five Native American women had been assaulted by their spouses or intimate partners,[16] and a nationwide survey found that one third of all American Indian women will be raped during their lifetimes.[17] A study funded by the National Institute of Justice found

[15] As Senators Grassley, Hatch, Kyl, and Cornyn point out, this provision adds new protections in addition to ensuring consistency among the different VAWA programs. Ensuring that services be provided regardless of sexual orientation or gender identity is necessary because of the difficulties in accessing services documented above. These categories are not new to Federal civil rights protection, however. The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, which was signed into law on October 28, 2009 as part of Public Law 111–84, extended the Federal hate crimes law to the same classes of victims. That law has been an important and successful addition to Federal civil rights enforcement and is similar to the goal of stemming physical violence against these vulnerable communities.

[16] Lorraine Halinka Malcoe, et al., Socioeconomic Disparities in Intimate Partner Violence Against Native American Women: A Cross-Sectional Study, BMC Medicine (May 2004), retrieved from http://www.biomedcentral.com/1741-7015/2/20.

[17] Patricia Tjaden, et al., Extent, Nature, and Consequences of Rape Victimization: Findings from the National Violence Against Women Survey, Special Report of the National Institute of Justice and the Centers for Disease Control and Prevention (January 2006), retrieved from https://www.ncjrs.gov/pdffiles1/nij/210346.pdf.

that, on some reservations, Native American women are murdered at a rate more than ten times the national average.[18]

This legislation bolsters existing efforts to confront the ongoing epidemic of violence on tribal land by expanding Federal law enforcement tools and recognizing limited concurrent tribal jurisdiction to investigate, prosecute, convict, and sentence non-Indian persons who assault Indian spouses, intimate partners, or dating partners, or who violate protections orders, in Indian country. This new provision furthers the community-coordinated response model which has been critical to VAWA's success by recognizing that tribal nations may be best able to address violence in their own communities. Neither the United States nor any State would lose any criminal jurisdiction as a result.

The Minority Views of Senators Grassley, Hatch, Kyl and Cornyn express concern that consideration of the new tribal provisions, particularly the narrow jurisdictional expansion in section 904, has been cursory. They also vigorously oppose the substance of these provisions. These concerns were unexpected because these offices raised no objections about the provisions during the months of discussions and bipartisan negotiations that took place about the legislative text before the bill moved through the Committee. Nevertheless, the Committee welcomes the opportunity to provide a more expansive explanation of the reasoning behind these provisions and the substantial consideration they have received.

As the Minority Views of Senators Kyl, Hatch, Sessions and Coburn acknowledge, sections 904 and 905 of this bill are taken almost entirely from S. 1763, the Stand Against Violence and Empower Native Women Act (the SAVE Native Women Act), which is based on a Department of Justice proposal submitted to Congress on July 21, 2011 in anticipation of the reauthorization of the Violence Against Women Act.[19] That proposal was the product of extensive multi-year consultations with tribal leaders about public safety generally and violence against women specifically,[20] and built on years of previous work developing the Tribal Law and Order Act, which became law in 2010. The Senate Committee on Indian Affairs held a hearing on the proposal on July 14, 2011,[21] and incorporated it into draft legislation which was widely circulated throughout August and posted on that Committee's website. Senator Akaka, Chairman of the Indian Affairs Committee, modified the draft in response to feedback and introduced the SAVE Native Women Act on October 31, 2011. The bill was referred to that Committee for further action, and it held a hearing on November 10, 2011 to further review and evaluate the legisla-

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[18] Ronet Bachman, et al., Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is Known (2008), retrieved from http://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf.

[19] *See* Appendix, July 21, 2011 letter and attached legislative proposals from Ronald Weich to Joseph Biden, President of the Senate, and John Boehner, Speaker of the House, asking Congress to consider "proposals to address the epidemic of domestic violence against Native women."

[20] Consistent with Executive Order 13175 and President Obama's November 5, 2009 Memorandum on tribal consultation, the Department of Justice convened tribal consultations in 2009, 2010 and 2011 to discuss public safety and violence against women on tribal land.

[21] Native Women: Protecting, Shielding, and Safeguarding Our Sisters, Mothers, and Daughters, before the Senate Comm. on Indian Affairs, 112th Cong. (2011), available at http://www.indian.senate.gov/hearings/hearing.cfm?hearingID=3d9031b47812de2592c3baeba618e2eb.

tion.[22] The Indian Affairs Committee reported the bill on December 8, 2011, on a voice vote with bipartisan support.

Responding to the crisis of violence against Native women has been a core principle of VAWA from its inception, and significant strides have been made in combating domestic violence in Indian country committed by Indian men. Unfortunately, much of the violence against Indian women is perpetrated by non-Indian men. According to Census Bureau data, well over 50 percent of all Native American women are married to non-Indian men, and thousands of others are in intimate relationships with non-Indians. Tribes do not currently have the authority to prosecute non-Indian offenders even though they live on Indian land with Native women. Prosecuting these crimes is left largely to Federal law enforcement officials who may be hours away and are often without the tools or resources needed to appropriately respond to domestic violence crimes while also addressing large-scale drug trafficking, organized crime, and terrorism cases. As a result, non-Indian offenders regularly go unpunished, and their violence continues. Domestic violence is often an escalating problem, and currently, minor and mid-level offenses are not addressed, with Federal authorities only able to step in when violence has reached catastrophic levels. This leaves victims tremendously vulnerable and contributes to the epidemic of violence against Native women.

The Committee seeks to address this specific jurisdictional gap by incorporating a provision almost identical to section 201 of the SAVE Native Women Act into this reauthorization of VAWA.[23] That provision provides tribes special domestic-violence criminal jurisdiction to hold non-Indian offenders accountable in very limited circumstances. First, it extends only to the crimes of domestic violence, dating violence, and violations of protection orders that are committed in Indian country. Second, it covers only those non-Indians with significant ties to the prosecuting tribe: those who reside in the Indian country of the prosecuting tribe, are employed in the Indian country of the prosecuting tribe, or are either the spouse or intimate partner of a member of the prosecuting tribe. The jurisdiction does not cover non-Indians who commit any offense other than domestic violence, dating violence, or violation of a protection order, and it only covers those offenses when they occur in Indian country and the defendant has a significant connection to the tribe.

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[22] Legislative Hearing on S. 1763, the SAVE Native Women Act, before the Senate Comm. on Indian Affairs, 112th Cong. (2011), available at http://www.indian.senate.gov/hearings/hearing.cfm?hearingID=9b6937d5e931a0b792d258d9b32cc1c2.

[23] The Minority Views submitted by Senators Grassley, Hatch, Kyl, and Cornyn erroneously suggest that it is not within Congress's power to authorize tribal jurisdiction over non-Indians. To the contrary, the Supreme Court has indicated that Congress has the power to recognize and thus restore tribes' "inherent power" to exercise criminal jurisdiction over all Indians and non-Indians. In *Oliphant* v. *Suquamish Indian Tribe,* 435 U.S. 191 (1978), the Court suggested that Congress has the constitutional authority to decide whether Indian tribes should be authorized to try and to punish non-Indians. *See* 435 U.S. at 206–12; *id*. at 212 (stating that the increasing sophistication of tribal court systems, the Indian Civil Rights Act's protection of defendants' procedural rights, and the prevalence of non-Indian crime in Indian country are all "considerations for Congress to weigh in deciding whether Indian tribes should finally be authorized to try non-Indians"). In *United States* v. *Lara,* 541 U.S. 193 (2004), which involved tribal criminal jurisdiction over an Indian who was not a member of the tribe that prosecuted him (a "non-member Indian"), the Court held that Congress has the constitutional power to relax restrictions that have been imposed on the tribes' inherent prosecutorial authority. *See* 541 U.S. at 196, 207; *id.* at 210 (holding that "the Constitution authorizes Congress to permit tribes, as an exercise of their inherent tribal authority, to prosecute non-member Indians"); *id.* at 205 (refusing to "second-guess the political branches' own determinations" about "the metes and bounds of tribal autonomy").

General crimes of violence by non-Indians, crimes between two non-Indians, or crimes between persons with no ties to the tribe are not covered. Although an important change from the current limit on tribal authority, this jurisdictional expansion is narrowly crafted and satisfies a clearly identified need.

Moreover, this additional tribal authority is only available to those tribes that guarantee protections for the rights of defendants.[24] Similar to the approach taken in the Tribal Law and Order Act, tribes would be required to protect effectively the same Constitutional rights as guaranteed in State court criminal proceedings. Rather than finding their basis in the Constitution, these rights are guaranteed through the Indian Civil Rights Act of 1968, as amended in 1986 and 1990, and through the Tribal Law and Order Act. Those statutes protect individual liberties and constrain the power of tribal governments in much the same ways that the Constitution limits the powers of Federal and State governments.[25] As applied in this legislation, they include, but are not limited to, the right to effective assistance of counsel at least equal to that guaranteed by the Constitution; the right of an indigent defendant to the assistance of a licensed defense attorney at the tribe's expense; the right against unreasonable search and seizures; the right not to be twice put in jeopardy for the same offense; the right not to be compelled to testify against oneself; the right to a speedy and public trial; the right to be informed of the nature and cause of the accusation; the right to be confronted with adverse witnesses; the rights against excessive bail and fines, and against cruel and unusual punishment; the right not to be deprived of liberty or property without due process of law; the right to a trial by jury of not less than six persons when accused of an offense punishable by imprisonment; and the right to petition a Federal court for habeas corpus to challenge the legality of one's detention by the tribe.

Fundamentally, section 904 of this reauthorization builds on the groundwork laid by Congress in passing the Tribal Law and Order Act. That law is based on the premise that tribal nations with sufficient resources and authority will be best able to address violence in their own communities, and they should be allowed to do so when the necessary procedural protections are established. Extending that jurisdiction in a very narrow set of cases over non-Indians who voluntarily and knowingly established significant ties to the tribe is consistent with that approach, responsive to the epidemic

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[24] The Minority Views submitted by Senators Grassley, Hatch, Kyl, and Cornyn ask, "On what basis is the majority report confident that all tribes are able to provide all defendants with all rights guaranteed by the United States Constitution?" The question suggests a misunderstanding of the provision. This additional tribal authority is *contingent* on the ability to provide non-Indian defendants with the rights required under law. If a tribe cannot do so, it may not exercise this jurisdiction.

[25] The Minority Views submitted by Senators Kyl, Hatch, Sessions, and Coburn question the ability of tribal governments to meaningfully protect civil liberties due to their "racially-exclusive nature" and the absence of separation of powers in some tribal governments. Again, the Committee notes that the special domestic violence jurisdiction authorized by this legislation is available only to those tribes that do provide the required procedural protections. Moreover, many tribes have long been recognized to have this capacity. *See Oliphant,* at 211–212 (stating "[w]e recognize that some Indian tribal court systems have become increasingly sophisticated and resemble in many respects their state counterparts. We also acknowledge that with the passage of the Indian Civil Rights Act of 1968, which extends certain basic procedural rights to *anyone* tried in Indian tribal court, many of the dangers that might have accompanied the exercise by tribal courts of criminal jurisdiction over non-Indians only a few decades ago have disappeared") (emphasis in original). The Committee firmly rejects the Minority's view that tribal governments are an "unsuitable vehicle for ensuring the protection of civil rights."

of violence experienced by Native women, and within the authority of Congress to do.[26]

In addition to the new tribal jurisdiction, the reauthorization continues to recognize the meaningful role that Federal law enforcement must play in reducing domestic violence, sexual assault and stalking in Indian country and includes additional tools to enable Federal law enforcement to effectively do so. For example, section 906 amends the Federal Criminal Code to add a 10-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating and a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily injury. These changes will enable Federal prosecutors to more effectively combat different types of assault frequently committed against women in Indian country and to appropriately respond to the gradual escalation of seriousness often associated with domestic violence offenses.

Another important tool in reducing violence on tribal land is the use of protection orders. Section 905 of the legislation is a narrow technical fix to clarify Congress's intent to recognize that tribal courts have full civil jurisdiction to issue and enforce protection orders involving any person, Indian or non-Indian. At least one Federal district court has misinterpreted 18 U.S.C. 2265(e) and held that tribes lack civil jurisdiction to issue and enforce protection orders against certain non-Indians who reside within the reservation. That decision erroneously undercut tribal courts' ability to protect victims and maintain public safety within their communities. Section 905 corrects this error. It does not in any way alter, diminish, or expand tribal criminal jurisdiction or existing tribal authority to exclude individuals from Indian land.[27] The bill also includes key improvements to VAWA's grants to Indian Tribal Coalitions to ensure consistent funding to existing and new coalitions that help tribes better respond to domestic violence, sexual assault, dating violence, and stalking.

Another significant focus of this legislation is on efforts to reduce domestic violence-related homicides. Three women are killed every day in the United States by an abusive spouse or intimate partner.[28] Domestic violence often follows a pattern of escalation, making these homicides predictable and therefore preventable. The legislation adds a new purpose area to several grant programs to en-

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[26] Several sets of Minority Views suggest that Federal authorities, or even State authorities, should fill this identified gap and prosecute domestic violence offenses by non-Indians in Indian Country. Based on the extensive record developed by the Senate Committee on Indian Affairs and in this report, the Committee concludes that allowing cases to be investigated and prosecuted within the community using existing infrastructures and resources, with appropriate protections, as this legislation does, will be both more efficient and more effective than creating a massive new infrastructure, moving law enforcement and prosecutors often hours away from their current locations, and allocating substantial new resources to deal with this significant unmet need.

[27] The Minority Views of Senators Kyl, Hatch, Sessions, and Coburn express concern that this section would "allow Indian tribes to bar non-Indians from residing on their own property, privately held in fee simple, when that property is within the outer boundaries of an Indian reservation." Protection orders, whether they are issued in Federal, State, or tribal court, frequently bar an individual from coming within a certain distance of a residence that he or she owns and that is shared with the person protected by the order. These protection orders remain in force for only a limited period of time and do not permanently exclude anyone from his or her own property. The Minority Views also suggest that the use of the words "Indian land" in Section 905 has the potential to expand tribal exclusion authority. That is not correct. The phrase "Indian land" already exists in Section 2265(e), which recognizes tribal civil jurisdiction to enforce protection orders through "exclusion of violators from Indian lands" (emphasis added). Nothing in S. 1925 would change existing law on this point.

[28] Shannan Catalano, et al., Female Victims of Violence, *supra* note 1.

courage States and local communities to train law enforcement, victim service providers and courts to screen victims for the warning signs that often accompany escalating violence and provide immediate intervention for those at risk. These programs have proven to be very effective. For example, the Lethality Assessment Program adopted by Maryland has been credited with reducing intimate partner homicides by 41 percent.[29]

The reauthorization also includes improved protections for battered immigrants. Since its inception, the Violence Against Women Act has incorporated provisions to protect battered immigrants whose noncitizen status can make them particularly vulnerable to crimes of domestic and sexual violence. The abusers of undocumented immigrants often exploit the victims' immigration status, leaving the victim afraid to report the abuse to law enforcement and fearful of assisting with the investigation and prosecution of associated crimes. This legislation makes several modest changes to immigration protections in current law, including a modification of the U visa annual cap. The U visa program, created by the 2000 reauthorization of VAWA, allows law enforcement officials to request up to 10,000 visas each year for victims who are helping to investigate and prosecute serious crimes. In the past two years, that cap has been reached prior to the end of the fiscal year. The Secretary of Homeland Security, as well as State, local, and national law enforcement organizations, have asked Congress to increase the cap. Rather than a direct increase, however, the bill as reported will allow the Department of Homeland Security to draw from a pool of previously authorized but never used U visas if the annual cap is reached in a given fiscal year. In those circumstances, no more than 5,000 recaptured U visas may be issued before the next fiscal year.[30] The legislation also adds stalking to the list of enumerated crimes for which a U visa is available. These improvements are not only essential to law enforcement efforts to protect immigrant victims, they are critical public safety tools necessary to remove violent offenders from the streets before they harm others.[31]

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[29] Maryland Network Against Domestic Violence, https://www.mnadv.org/lethality.html.

[30] The Minority Views of Senators Grassley, Hatch, Kyl, and Cornyn suggest that the U visa process needs to be drastically altered in order to prevent fraud. However, they cite no case or study—not even a single allegation—where a U visa was obtained fraudulently. The integrity of the U visa process is a direct result of the requirement in current law, undisturbed by S. 1925, that a U visa can only be granted if a law enforcement officer certifies that the victim is, has been, or will be helpful in an investigation. The Committee believes that the current certification process is a sufficient check on fraudulent behavior, because it is incumbent on the law enforcement officer to use judgment based on training and experience to determine whether a victim is being truthful and cooperative. In contrast, the substitute amendment offered by Senator Grassley would have replaced a law enforcement officer's informed judgment with an arbitrary congressional mandate.

[31] The Minority Views of Senators Grassley, Hatch, Kyl, and Cornyn suggest that the Chairman disregarded testimony and written submissions to the Committee describing alleged fraud in the immigration system. In fact, Chairman Leahy investigated claims raised by a hearing witness and another U.S. citizen who claimed that she had been a victim of fraud when her non-U.S. citizen spouse filed a VAWA self-petition. The Chairman also investigated more generally the potential for fraud in VAWA and U visa applications and the authorities available to the Department of Homeland Security (DHS) in investigating fraud. The Chairman's investigation confirmed that DHS can rely on virtually any evidence that comes to its attention suggesting fraud. For example, the Department has authority to investigate information provided by an alleged abuser and rely upon it if it can be corroborated. The only information that cannot be relied upon by the Government in adjudicating a VAWA self-petition is uncorroborated information that was obtained solely from the alleged abuser. The Chairman's staff discussed these findings with Senator Grassley's staff in December 2011. The Chairman's staff invited the Ranking Member to present any suggestions he might have for improvements to the law. The Chairman's staff also offered to schedule a meeting between the Chairman's and Ranking Member's

Women between the ages of 16 and 24 suffer from the highest rates of dating violence and sexual assault in the country.[32] Therefore, this reauthorization strengthens efforts to reduce domestic violence, dating violence, sexual assault, and stalking among teenagers and on campuses. The legislation creates a new program focused on youth education and community-based collaboration to prevent domestic violence, dating violence, sexual assault, and stalking, which is consolidated with existing prevention programs aimed at children exposed to violence and engaging men as role models. The legislation also updates the Clery Act, which requires colleges and universities to provide information about campus security policies and crime statistics to students and staff. Changes made in this reauthorization require colleges and universities to inform their community of the school's policies and procedures related to domestic violence, dating violence, sexual assault, and stalking. This includes disclosures regarding the disciplinary proceedings when alleged offenses are reported, the policies and procedures in place to protect and maintain the confidentiality of the victim, and the resources available to victims of these offenses. The reauthorization also requires schools that receive funds under the Grants to Combat Violent Crimes on Campus program to, at a minimum: (1) implement a coordinated community response both internal to and external to the campus; (2) provide prevention education for all incoming students; (3) provide training on domestic violence, dating violence, sexual assault, and stalking for campus law enforcement; and (4) provide training on such crimes to members of the campus judicial board.

This reauthorization also strengthens efforts to provide safe housing for victims of domestic violence, dating violence, sexual assault, and stalking. Obtaining safe housing is an obstacle frequently faced by survivors seeking to leave dangerous situations. The 2005 reauthorization of VAWA added crucial protections that prevented applicants from being evicted from or denied admission to certain housing programs because they were victims. This legislation modifies the substance and the scope of those housing protections in three significant ways. First, it extends the housing protections to victims of sexual assault. Second, to better reflect the terminology used by the housing industry, the bill replaces the term "immediate family member" with "affiliated individual" in referring to other victims associated with the tenant who are protected under this provision. Third, this legislation extends the VAWA housing protections to nine Federal programs that are not covered currently, including the McKinney-Vento Act, which provides housing for the homeless, the HOME Improvement Partnership Program, the Low Income Housing Tax Credit, and the Rural Housing Services program.

The bill also includes several smaller modifications to housing policy, including a requirement that tenants be notified of changes made under this reauthorization. It is the Committee's intent that, to the extent practicable, notification be incorporated into existing

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offices and DHS to discuss these matters. The meeting was scheduled, but a few days before the appointed date, the Committee minority staff informed majority staff that it no longer wished to participate. The Ranking Member did not offer any suggestions to modify current immigration law until the night before the Committee Executive Business meeting at which VAWA was debated.

[32] NISVS survey, *supra* note 2.

standard notification documents that are provided to tenants, such as the Tenants' Rights and Responsibilities brochure. The bill also requires the appropriate agency to develop model emergency transfer plans. It is the Committee's intent that these policies should be tailored to the various types of housing programs covered by the bill, recognizing that housing agencies, owners, and managers have varying abilities to transfer occupants, based on the volume and availability of dwelling units under their control or management. The emergency transfer plans should provide guidance for use in situations where it is not feasible for an individual public housing agency, owner, or manager to effectuate a transfer.

The legislation also modifies the existing Transitional Housing Assistance program, which focuses on a comprehensive victim-centered approach to provide transitional housing services that move individuals into permanent housing and that assist victims for whom emergency shelter services are unavailable or insufficient. This reauthorization seeks to strengthen the program by clarifying that a qualified applicant is one whose policies protect victim safety, reflect an understanding of the dynamics of the four covered crimes, and do not include prohibited activities such as background checks or clinical evaluations to determine eligibility for services. The section also enhances a victim's ability to become independent from the abuser by allowing grant funds to be used for job training and employment counseling.

Another focus of this reauthorization is to improve the overall administration and functioning of VAWA-funded programs. These changes are largely made through modifications to the universal grant conditions, the conditions to which all VAWA-funded programs must adhere. One modification is the requirement that any grantee or subgrantee that provides legal assistance with VAWA funds be sufficiently trained or experienced in providing such assistance to victims of domestic violence, dating violence, sexual assault, and stalking, consistent with the requirements in the Legal Assistance to Victims program. In addition, the bill includes more stringent constraints on grantees in disclosing confidential and personally identifying information. Grantees are now explicitly prohibited from conditioning services on whether a victim provides consent to release confidential information. Grantees must also document compliance with the confidentiality and privacy provisions of this section.

The legislation also promotes improved communication between grantees and the Office on Violence Against Women (OVW) by establishing a biennial conferral process to allow key stakeholders to share ideas and concerns affecting their programs. The areas of conferral include how grants are administered, as well as promising practices in the field. After each conferral, OVW is required to prepare and publicize a report summarizing the issues presented and the steps it will take to address those issues.

Another important modification made to improve overall grant management is a streamlined application process for the STOP program, which currently requires States to provide extensive documentation that is of little use to OVW in monitoring the use of funds. The bill instead requires the State to develop a comprehensive implementation plan addressing how it will spend the funds received. A wide variety of key stakeholders must be involved in

the planning process to ensure a coordinated effort to address victims' needs and strengthen enforcement efforts. To ensure the efficient use of funds, this proposal also requires that States coordinate their STOP implementation plans with plans they have developed under other Federal programs, such as the Family Violence Prevention and Services Act, the Public Health Services Act (which authorizes Rape Prevention and Education grants), and the Victims of Crime Act.

Finally, to ensure that VAWA funds are used effectively and not vulnerable to waste, fraud and abuse, this reauthorization incorporates new accountability provisions including audit requirements, enforcement mechanisms, and restrictions on grantees and costs. The bill as reported requires the Department of Justice's Office of the Inspector General (OIG) to perform regular audits and penalizes grantees that are unwilling to remedy audit problems in a timely manner. Many issues detected by OIG are based on incomplete or untimely filed paperwork and can be remedied on a collaborative basis before the end of the process. The bill gives grantees a reasonable period of time to respond to and correct errors, but imposes severe penalties on grantees that refuse to cooperate or that have engaged in fraud or abuse. The bill also extends to OVW the new financial rules regarding conferences hosted or supported by the Department of Justice which were established in the Commerce, Justice, and Science Appropriations Act of 2012 (P.L. 112–55, Sec. 540).

The Minority Views submitted by Senators Grassley, Hatch, Kyl, and Cornyn mischaracterize the accountability provisions in S. 1925 as a "watered-down" version of a package that previously gained bipartisan support in the Committee as part of S. 1301, The Trafficking Victims Protection Reauthorization Act, when, in fact, the proposals are almost an exact replica. The Minority Views are correct that the bill "leaves it to the Inspector General to determine how many audits to conduct." The Committee believes that the Inspector General is in the best position to decide the number of audits that are necessary to most effectively determine whether Federal dollars are being spent efficiently and wisely.[33] The Minority Views of Senators Grassley, Hatch, Kyl, and Cornyn also criticize S. 1925 because it "fails to include a limitation on using Federal grants to lobby for additional grant dollars." Such a requirement in this legislation is unnecessary. Grantees are prohibited under current law from this practice, and the existing VAWA universal grant conditions make this prohibition explicitly clear.[34]

II. History of the Bill and Committee Consideration

A. Introduction of the Bill

The Violence Against Women Reauthorization Act of 2011 was introduced as S. 1925 on November 30, 2011, by Senators Leahy

[33] Notably, the substitute amendment offered by Senator Grassley would have removed discretion from the Inspector General regarding the appropriate number of audits to be conducted and would have instead imposed an arbitrary minimum requirement of auditing 10 percent of all VAWA grants. That would total almost 100 audits each year just of VAWA grantees. It is difficult to imagine how the Inspector General would have the capacity to conduct all of these additional audits in addition to its other oversight responsibilities without significantly more resources, which were not provided in the substitute amendment.

[34] *See* 18 U.S.C. § 1913; 42 U.S.C. § 13925(b)(10).

and Crapo. The bill was referred to the Committee on the Judiciary. Since the date of introduction, Senators Kirk, Durbin, Kohl, Klobuchar, Blumenthal, Boxer, Franken, Schumer, Whitehouse, Kerry, Rockefeller, Shaheen, Murray, Harkin, Stabenow, Casey, Gillibrand, Reed, Cardin, Lautenberg, Levin, Sanders, Feinstein, Coons, Murkowski, Begich, Wyden, Collins, Mikulski, Brown (MA), Bingaman, Cantwell, Landrieu, Menendez, Hagan, Johnson (SD), Lieberman, Akaka, Bennet, Tester, Baucus, Conrad, Udall (NM), McCaskill, Webb, Nelson (NE), Brown (OH), Warner, Inouye, Merkley, Carper, Nelson (FL), Manchin, Udall (CO), Pryor, and Reid have joined as cosponsors.

B. COMMITTEE CONSIDERATION

1. Hearings

Since the 2005 reauthorization of VAWA, the Senate Committee on the Judiciary has held four hearings on the progress made through this landmark legislation. On June 10, 2009, the Committee held a hearing entitled, "The Continued Importance of the Violence Against Women Act." The witnesses at the hearing were Catherine Pierce, Acting Director of the Office on Violence Against Women at the United States Department of Justice; Gabrielle Union, Actor and Advocate from Beverly Hills, California; Karen Tronsgard-Scott, Director of the Vermont Network Against Domestic and Sexual Violence in Montpelier, Vermont; Ann Burke, President and Founder of the Lindsay Ann Burke Memorial Fund in Saunderstown, Rhode Island; Collene Campbell, National Chair of Force 100 in San Juan Capistrano, California; and Sally Wolfgang Wells, Chief Assistant of the Office of the Maricopa County Attorney in Phoenix, Arizona. Their testimonies are available at http://www.judiciary.senate.gov/hearings/hearing.cfm?id=e655f9e2809e5476862f735da14af0bd.

On May 5, 2010, the Committee held a hearing titled, "The Increased Importance of the Violence Against Women Act in a Time of Economic Crisis." The witnesses at the hearing were Susan B. Carbon, Director of the Office on Violence Against Women at the U.S. Department of Justice; Auburn L. Watersong, Economic Justice Specialist with the Vermont Network Against Domestic and Sexual Violence in Montpelier, Vermont; Lolita Ulloa, Managing Attorney for the Victim Services Division of the Hennepin County Attorney's Office in Minneapolis, Minnesota; and Richard Gelles, Dean of the University of Pennsylvania's School of Social Policy & Practice in Philadelphia, Pennsylvania. Their testimonies are available at http://www.judiciary.senate.gov/hearings/hearing.cfm?id=e655f9e2809e5476862f735da15ccca0.

On June 3, 2011, the Committee's Subcommittee on Crime and Terrorism held a field hearing titled "Preventing Teen Violence: Strategies for Protecting Teens from Dating Violence and Bullying." The witnesses at the hearing were Ann Burke, President and Founder of the Lindsay Ann Burke Memorial Fund in Saunderstown, Rhode Island; Deborah DeBare, Executive Director of the Rhode Island Coalition Against Domestic Violence, from Warwick, Rhode Island; Kate Reilly, Start Strong Director at the Sojourner House, in Providence, Rhode Island; and Ruth Zakarin, Executive Director of the Katie Brown Educational Program, in

Fall River, Massachusetts. Their testimonies are available at http://www.judiciary.senate.gov/hearings/hearing.cfm?id=e655f9e2809e5476862f735da16dcd53.

On July 13, 2011, the Committee held a hearing titled, "The Violence Against Women Act: Building on Seventeen Years of Accomplishments." The witnesses at the hearing were Dr. Phillip C. McGraw, a clinical psychologist and host of a nationally-syndicated television talk show; Dr. Jane Van Buren, Executive Director of Women Helping Battered Women in Burlington, Vermont; Michael Shaw, Co-Director of Domestic Violence & Sexual Assault Services at Waypoint in Cedar Rapids, Iowa; Eileen Larence, Director of Homeland Security and Justice at the United States Government Accountability Office; and Julie Poner of Indianapolis, Indiana. Their testimonies are available at http://www.judiciary.senate.gov/hearings/hearing.cfm?id=3d9031b47812de2592c3baeba61af68.

2. Executive Business Meetings

The bill was placed on the Committee agenda for consideration at an Executive Business Meeting on January 26, 2012. It was held over on that date at the request of the Republican members.

On February 2, 2012, the Committee considered S. 1925. Chairman Leahy offered an amendment in the nature of a substitute, which was adopted by unanimous consent. This amendment made a number of changes to clarify and strengthen the bill and was a reflection of further bipartisan negotiations that occurred after the legislation was introduced. Chairman Leahy also proposed a technical amendment to the substitute bill that made slight typographical corrections. The technical amendment was adopted by unanimous consent.

Senator Grassley offered an amendment in the nature of a substitute amendment that made several significant modifications to S. 1925. The amendment was rejected by a roll call vote as follows (votes by proxy indicated with *):

Tally: 7 Yeas, 11 Nays

Yeas (7): Grassley (R–IA), Hatch (R–UT), Kyl (R–AZ),* Sessions (R–AL),* Graham (R–SC),* Cornyn (R–TX),* Lee (R–UT).

Nays (11): Leahy (D–VT), Kohl (D–WI), Feinstein (D–CA), Schumer (D–NY),* Durbin (D–IL), Whitehouse (D–RI), Klobuchar (D–MN), Franken (D–MN), Coons (D–DE), Blumenthal (D–CT), Coburn (R–OK).*

Senator Grassley offered an amendment that provided for an alien's third drunk driving conviction to be considered an aggravated felony, and thus a deportable offense for purposes of the Immigration and Nationality Act. The amendment would apply to convictions that occurred before, on, or after the enactment of S. 1925. Senator Leahy then orally offered a second degree amendment that struck the retroactive provision of the amendment. It was the Committee's clear intent that, with the adoption of the second degree amendment, Senator Grassley's amendment not be applied retro-

actively.[35] The second degree amendment was accepted by roll call vote.

Tally: 11 Yeas, 7 Nays

Yeas (11): Leahy (D–VT), Kohl (D–WI), Feinstein (D–CA), Schumer (D–NY),* Durbin (D–IL), Whitehouse (D–RI), Klobuchar (D–MN), Franken (D–MN), Coons (D–DE), Blumenthal (D–CT), Lee (R–UT).

Nays (7): Grassley (R–IA), Hatch (R–UT), Kyl (R–AZ),* Sessions (R–AL),* Graham (R–SC),* Cornyn (R–TX),* Coburn (R–OK).*

The Committee then unanimously accepted the Senator Grassley amendment, as amended by Senator Leahy's second degree amendment, by roll call vote.

Senator Grassley offered an amendment that added a five-year mandatory minimum sentence to the crime of aggravated sexual assault under 18 U.S.C. § 2241(a). The amendment was accepted by roll call vote.

Tally: 15 Yeas, 2 Nays, 1 Pass

Yeas (15): Kohl (D–WI), Feinstein (D–CA), Schumer (D–NY), Durbin (D–IL), Whitehouse (D–RI), Klobuchar (D–MN), Franken (D–MN), Coons (D–DE), Blumenthal (D–CT), Grassley (R–IA), Hatch (R–UT), Kyl (R–AZ),* Graham (R–SC),* Cornyn (R–TX),* Coburn (R–OK).*

Nays (2): Leahy (D–VT), Lee (R–UT).

Pass (1): Sessions (R–AL).*

Senator Cornyn offered an amendment that created a misdemeanor crime for United States clients of international marriage brokers to knowingly make a false or fraudulent statement with regard to their criminal background and other safety-relevant disclosures that are required under current law. The amendment was accepted by roll call vote.

Tally: 14 Yeas, 2 Nays, 2 Pass

Yeas (14): Leahy (D–VT), Kohl (D–WI), Feinstein (D–CA), Schumer (D–NY), Durbin (D–IL), Whitehouse (D–RI), Klobuchar (D–MN), Franken (D–MN), Coons (D–DE), Blumenthal (D–CT), Kyl (R–AZ),* Cornyn (R–TX),* Lee (R–UT), Coburn (R–OK).*

Nays (2): Grassley (R–IA), Hatch (R–UT).

Pass (2): Sessions (R–AL),* Graham (R–SC).*

The Committee then voted to report S. 1925, the Violence Against Women Reauthorization Act of 2011, as amended, favorably to the Senate. The Committee proceeded by roll call vote as follows:

Tally: 10 Yeas, 8 Nays

Yeas (10): Leahy (D–VT), Kohl (D–WI), Feinstein (D–CA), Schumer (D–NY), Durbin (D–IL), Whitehouse (D–RI), Klobuchar (D–MN), Franken (D–MN), Coons (D–DE), Blumenthal (D–CT).

Nays (8): Grassley (R–IA), Hatch (R–UT), Kyl (R–AZ),* Sessions (R–AL),* Graham (R–SC),* Cornyn (R–TX),* Lee (R–UT), Coburn (R–OK).*

[35] This statement of Committee intent is consistent with the description of the Grassley amendment that is contained in the Minority Views of Senators Grassley, Hatch, Kyl, and Cornyn.

III. Section-by-Section Summary of the Bill

Sec. 1. Short title

This section provides that the Act may be cited as the "Violence Against Women Reauthorization Act of 2011."

Sec. 2. Table of contents

This section provides a table of contents for the bill.

Sec. 3. Universal definitions and grant conditions

This section is comprised of updates to two major subsections that apply to all VAWA programs: universal definitions and universal grant conditions. The changes are both substantive and technical in nature.

The universal definition section clarifies key terms by incorporating references to existing statutory definitions or providing further description. For example, the definition of "community-based organization" is amended to clarify that it covers only non-governmental, nonprofit organizations, except in tribal communities where the nonprofit sector is often underdeveloped and tribal government programs may fill a void. The definition of "legal assistance" is modified to clarify that intake or referral services on their own do not constitute legal assistance. "Rural area" is broadened to include Federally-recognized Indian tribes, some of which have been precluded from participating in programs such as the Rural grant program. The definition of "personally identifying information" is also updated by adding items such as a driver's license number to the current list that includes name, address, and Social Security number. The definition also removes the provision that other information that could be personally identifying must be combined with one of the listed items.

This section also includes new definitions of "culturally specific services," "population specific services," and "underserved populations." Together, these definitions, as applied through grant programs and set-asides throughout the bill, help to ensure that VAWA funded services effectively reach victims from communities with unique needs and characteristics, and communities whose members face barriers to access to traditional services. Other new definitions are added to improve clarity in programming, such as "Alaska Native village," "homeless," "rape crisis center" and "sex trafficking." Other existing definitions including "sexual assault" are updated and the definition of "rural state" is modified to reflect overall population growth.

This section also includes technical updates to VAWA definitions, which are incorporated throughout the bill. For example, in several places the four crimes of domestic violence, dating violence, sexual assault and stalking are explicitly enumerated to ensure uniformity. The original VAWA legislation emphasized reducing violence and strengthening services to victims of domestic violence and sexual assault. In subsequent reauthorizations, VAWA also addressed the offenses of dating violence and stalking, but not all of the grant programs were updated to reflect this change. Additionally, VAWA currently defines both "victim services" and "victim service provider" in a single definition as the type of organization that provides assistance to victims but does not address the services provided. This section separates out the term "victim services"

and includes in the definition activities such as social support systems, crisis intervention, referrals, and legal advocacy. Corresponding edits are made throughout the bill to reflect this change.

The second part of this section addresses changes to universal grant conditions, the conditions to which all VAWA programs must adhere. One modification is the requirement that any grantee or subgrantee that provides legal assistance with VAWA funds be sufficiently trained or experienced in providing such assistance to victims of domestic violence, dating violence, sexual assault, and stalking, consistent with the requirements in the Legal Assistance to Victims program. Another modification is more stringent constraints on grantees in disclosing confidential and personally identifying information. Grantees are now explicitly prohibited from conditioning services on whether a victim provides consent to release confidential information. Grantees must also document compliance with the confidentiality and privacy provisions of this section.

Additionally, this section provides grantees with the ability to advocate for State, local or tribal model codes or legislation to better respond to the needs of victims, which is a core aspect of a coordinated community response to the four crimes. At present, grantees may not use grant funds to advocate for these policies or legislative changes, even though some VAWA grant programs require grantees to adopt certain legislation or policies as a prerequisite for receiving funding (e.g., under the STOP and Arrest programs, grantees must certify that their laws or official policies are in compliance with certain requirements, including the payment of forensic medical exams and HIV testing of certain defendants indicted for sexual offenses). To ensure that grantees may engage in advocacy without running afoul of the Federal anti-lobbying statute, the bill proposes to authorize certain limited activities that are necessary to grantees' work but will not undermine the principle that Federal funding must not be used to lobby for more funding.

The bill also updates the anti-discrimination provision for VAWA grantees. Currently, there are significant differences in the level of anti-discrimination protections for VAWA programs due to the various statutes under which the grants were authorized. For example, some programs are authorized in the Omnibus Crime Control and Safe Streets Act of 1968 (Omnibus Act), which contains its own anti-discrimination provision. Other VAWA programs are covered by Title VI of the Civil Rights Act of 1964, which is less expansive in terms of the classes of individuals who are protected from discrimination. This section creates uniformity so that a grantee may not discriminate on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation or disability.

This section also promotes improved communication between grantees and the Office on Violence Against Women ("OVW") by establishing a biennial conferral process to allow key stakeholders to share ideas and concerns affecting their programs. The areas of conferral include how grants are administered and promising practices in the field. After each conferral, OVW is required to prepare and publicize a report summarizing the issues presented and the steps it will take to address those issues.

Sec. 4. Effective date

This section adds an effective date for certain titles and provisions to be the beginning of the fiscal year following the enactment of the Act.

TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE AGAINST WOMEN

Sec. 101. STOP grant

The STOP (Services-Training-Officers-Prosecutors) grant is the primary VAWA formula grant program for States, U.S. territories, and the District of Columbia that addresses the crimes of domestic violence, sexual assault, dating violence and stalking. Upon application, each State, U.S. territory, and the District of Columbia receives grants according to a statutory formula. They can then subgrant these funds to State agencies, State and local courts, units of local government, tribal governments, and nonprofit, nongovernmental victim services providers.

Three significant changes are made to the STOP grant program. First, this section makes several changes to increase the attention given to crimes of sexual violence. Although sexual assault has been one of the core crimes addressed by VAWA since its passage in 1994, a smaller percentage of STOP grant funding goes to sexual violence programming than is proportional to victimization rates. For example, a recent CDC survey reports that 35 percent of women in the United States are victims of domestic violence and 18 percent experience sexual assault. In 2007 and 2008, however, STOP grantees reported that on average 85 percent of victims served were domestic violence victims, 13 percent were sexual assault victims, and 2 percent were stalking victims. Moreover, only 3 percent of the charges filed by STOP-funded prosecutors were for sexual assault, while 80 percent were for domestic violence.

In response, this section includes the addition of purpose areas that are more directly responsive to the needs of sexual assault victims, including an increased focus on training for law enforcement and prosecutors and efforts to reduce rape kit backlogs. These new purpose areas will encourage States to address the ongoing needs of sexual assault victims. This section also includes a 20 percent set-aside for sexual assault programming to ensure that more funding under the STOP program is used to address this serious crime. The set-aside is to be implemented over two years and builds in flexibility to ensure that States can effectively and efficiently address the needs of all victims.

Second, while VAWA's focus on violence against women appropriately reflects the disproportionate number of women who experience severe forms of domestic and sexual violence, men are also the victims of these crimes. This section adds purpose areas so States may target the needs of male victims. It also clarifies that funds may be used for programs aimed at supporting victims who have had difficulty accessing traditional services because of their sexual orientation or gender identity, a problem indicated in recent surveys.

Third, this section streamlines the application process for the STOP program, which currently requires States to provide extensive documentation that is of little use to OVW in monitoring the

use of funds, and instead requires the State to develop a comprehensive implementation plan addressing how it will spend the funds received. A wide variety of key stakeholders must be involved in the planning process to ensure a coordinated effort to address victims' needs and strengthen enforcement efforts. To ensure the efficient use of funds, this proposal also requires that States coordinate their STOP implementation plans with plans they have developed under other Federal programs, such as the Family Violence Prevention and Services Act, the Public Health Services Act (which authorizes Rape Prevention and Education grants), and the Victims of Crime Act.

The authorized funding for STOP is reduced from $225 million to $222 million.

Sec. 102. Grants to Encourage Arrest Policies and Enforce Protection Orders ("Arrest" or "GTEAP")

The Arrest program is OVW's primary discretionary funding mechanism for encouraging criminal justice system reform and promoting coordinated community responses. It focuses on helping State, local, and tribal governments and agencies investigate and prosecute instances of domestic violence, dating violence, sexual assault, and stalking, and treat them as serious criminal violations. This section enhances that effort in several ways.

The most significant change is the emphasis on sexual assault, similar to other programs in this bill. As with the changes made in STOP, the grant purpose areas in Arrest are updated to include activities that are tailored to sexual assault issues, such as implementing Sexual Assault Nurse Examiner programs, Forensic Examiner programs, Sexual Assault Response Teams, and programs to reduce rape kit backlogs. Additionally, this section sets aside 25 percent of the available amounts to ensure that more funding under the Arrest program is used to address this serious crime.

Another important change is a modification of the requirement that State and local government recipients of Arrest program funds certify that they test sex offenders for HIV at the request of the victim within 48 hours of information or indictment and provide the results of the testing to the victim. Grantees that cannot certify in this manner lose five percent of the funding from their grant. Current law makes no allowance for jurisdictions that must exceed the 48-hour limit when offenders are not in custody or otherwise easily accessible (for example, there is no allowance for a case in which the defendant has been charged even though his or her whereabouts are unknown).

This section clarifies that grantees must also certify that they do not charge victims for costs associated with the modification, enforcement or dismissal of a protection order. Current law prohibits funds from going to States, tribes, and units of local government that impose fees for the filing, issuance, registration or servicing of protection orders.

This section also continues VAWA 2011's emphasis on reducing domestic and dating violence homicides through the use of evidence-based risk assessments.

The authorized funding for Arrest is reduced from $75 million to $73 million.

Sec. 103. Legal Assistance for Victims ("LAV")

The LAV program is a highly competitive grant program which has expanded the availability of legal assistance for many victims of domestic violence, dating violence, sexual assault, and stalking. This section seeks to build on that foundation by strengthening the training requirements for eligible entities to ensure that they have the relevant expertise in providing legal assistance to victims of domestic violence, dating violence, sexual assault, or stalking. Those without such expertise may provide assistance only if they complete appropriate training in this area of law and also practice while partnered with a legal assistance provider with demonstrated expertise. Additionally, this section allows grantees to recruit, train, and mentor pro bono attorneys and law students to address the continuing difficulty of limited resources and capacity.

The authorized funding for LAV is reduced from $65 million to $57 million.

Sec. 104. Consolidated grants to support families in the justice system

This section proposes to consolidate two programs that train judges and court personnel about the intersection of domestic violence and family court proceedings, and promote safe supervised visitation for families in cases involving domestic violence and sexual assault. Too often the steps victims are encouraged to take to escape violence—breaking the silence about abuse, seeking protection, limiting contact with the abusive partner—put them at a disadvantage in family court proceedings. This crisis in family courts is driven by a number of factors, including the prevalence of judges and court personnel who are not adequately trained to understand domestic violence. This consolidation conserves resources and creates a program that encourages States to focus on training and protocol development for family courts.

Authorized funding for this program is $22 million, a $3 million reduction from the aggregate total of the individual programs that were consolidated.

Sec. 105. Sex offender management

This section reauthorizes training programs to assist probation and parole officers and other personnel who work with released sex offenders. Authorized funding for this program remains at $5 million.

Sec. 106. Court-Appointed Special Advocate program ("CASA")

This section reauthorizes the Court-Appointed Special Advocate program, which provides assistance to child victims of abuse or neglect. A new annual reporting requirement is added. Authorized funding for this program remains at $12 million.

Sec. 107. Criminal provision relating to stalking, including cyberstalking

This section updates the Federal anti-stalking statute to capture more modern forms of communication that perpetrators use to stalk their victims. It also makes technical changes to the Interstate Domestic Violence statute and the Interstate Violation of a Protection Order statute.

Sec. 108. Outreach and services to Underserved Populations grant

This section strikes the text of the existing Outreach to Underserved Populations grant program, which focused exclusively on public information campaigns, and replaces it with a program offering services to adult and youth victims in underserved communities. Outreach, education, prevention, and intervention strategies remain an allowable purpose for the grant funding. However, a greater emphasis is placed on the planning and implementation of programs that directly meet the needs of victims. The current $2,000,000 authorization level for this program does not change, but is augmented with a two percent set-aside from funds appropriated to the STOP and Arrest programs.

Sec. 109. Culturally-Specific Services grant

This section removes the term "linguistically" which has caused confusion about the purpose of the program. Many entities that provide culturally specific programming but not linguistically specific programming mistakenly believed they would not be eligible. This change clarifies that the program is not limited to linguistically specific services. Funding for this program does not change and continues to be drawn from set-asides from the Arrest, LAV, Rural, Elder, and Disabilities programs.

TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 201. Sexual Assault Services Program ("SASP")

The Sexual Assault Services Program is the only VAWA program that is entirely dedicated to providing assistance to victims of sexual assault. It is similar to, though significantly smaller than, the Family Violence Prevention and Services Act (42 U.S.C. 10401, et seq.), which addresses domestic violence and is administered through the Department of Health and Human Services. SASP provides grants to States and territories, tribes, State sexual assault coalitions, tribal coalitions, and culturally specific organizations. Currently, funding is distributed to States and territories pursuant to a formula which treats the District of Columbia and Puerto Rico as territories despite their significantly larger populations. This section changes the formula by treating the District of Columbia and Puerto Rico as States in calculating minimum state funding allocations.

The authorized funding for SASP is reduced from $50 million to $40 million.

Sec. 202. Rural domestic violence, dating violence, sexual assault, stalking, and child abuse enforcement assistance

The Rural grant program was established by the first VAWA to address the unique challenges faced by victims of domestic violence and dating violence in rural jurisdictions. It encourages cooperation among law enforcement and victim service providers, among others, to investigate criminal incidents and provide treatment, education, and prevention strategies. This section, similar to the changes in other parts of VAWA 2011, strengthens responses to sexual assault through the inclusion of additional purpose areas. It also incorporates the use of multidisciplinary teams to address and pre-

vent domestic and dating violence homicide. This section also adds a purpose area to provide resources for victims in remote and geographically isolated areas who face barriers to accessing services.

The authorized funding for the Rural grant program is reduced from $55 million to $50 million.

Sec. 203. Training and services to end violence against women with disabilities grant

The Disability grant program, which addresses the gaps in abuse suffered by domestic violence, dating violence, sexual assault, and stalking victims with disabilities, is reauthorized and adds the use of evidence-based indicators to assess the risk of domestic and dating violence homicide. The authorized funding for the Disability grant program is reduced from $10 million to $9 million.

Sec. 204. Enhanced training and services to end abuse in later life grant

This section strikes the existing Elder Abuse grant program and replaces it with a more comprehensive response to this increasing problem. Currently, grantees are funded to train law enforcement and prosecutors in recognizing and responding to elder abuse, and to provide services for victims of elder abuse. Under this new section, entities may also educate and train health care providers, faith-based leaders, and conduct outreach activities to ensure that victims of elder abuse receive appropriate assistance.

The authorized funding for the Elder Abuse grant program is reduced from $10 million to $9 million.

TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

Sec. 301. Rape Prevention and Education grant ("RPE")

The RPE grant program supports the efforts of rape crisis centers, sexual assault coalitions, and other nonprofit organizations to educate and increase awareness on how to prevent sexual assaults. Funding is distributed to States based on population. This section ensures that every State, and the District of Columbia and Puerto Rico, receives a minimum allocation of $150,000 for prevention and education activities. Each U.S. Territory would receive $35,000. Any unused or remaining funds are to be distributed to the States, the District of Columbia, and Puerto Rico on the basis of population.

The authorized funding for RPE is reduced from $80 million to $50 million.

Sec. 302. Creating Hope through Outreach, Options, Services, and Education for Children and Youth ("CHOOSE Children & Youth")

A critical aspect of combating domestic violence, dating violence, sexual assault, and stalking is the impact these crimes have on children and youth, who may have been either directly victimized or traumatized by being exposed to such violence. VAWA addressed this issue by creating several different programs throughout the years that were aimed at providing education, prevention strategies, and services to children and youth.

Consistent with the overall goal of VAWA 2011, this section, along with section 402, consolidates eight current grants into two more streamlined programs. This section focuses on grants to provide services for children and youth victims, such as counseling, mentoring, and legal assistance, as well as training and assistance to personnel at middle and high schools who can help victims. Grantees may be victim service providers and community-based organizations that are encouraged to partner with State, tribal, and local governments, and other agencies that work with children and youth.

The authorized funding for this consolidated grant program is $15 million, a $15 million reduction from the $30 million authorized by the individual programs.

Sec. 303. Grants to combat violent crimes on campuses ("Campus Program")

The Campus program encourages institutions of higher education to partner with community-based organizations to adopt comprehensive, coordinated responses to domestic violence, dating violence, sexual assault, and stalking. The Department of Justice, in awarding these grants, has determined that a successful response to victims of the four crimes in colleges and universities must include the following components: (1) implementing a coordinated community response both internal to and external to the campus; (2) providing prevention education for all incoming students; (3) providing training on domestic violence, dating violence, sexual assault and stalking for campus law enforcement; and (4) providing training on such crimes to members of the campus judicial board. This section clarifies that these four components are minimum requirements that each grantee is expected to fulfill during the grant period.

The authorized funding for the Campus program is reduced from $15 million to $12 million.

Sec. 304. Campus sexual violence, domestic violence, dating violence, and stalking education and prevention

This section updates the Clery Act, which requires colleges and universities to provide information about campus security policies and crime statistics to students and staff. Under this section, colleges and universities must inform their community of the school's policies and procedures related to domestic violence, dating violence, sexual assault, and stalking. This includes disclosures regarding the disciplinary proceedings when alleged offenses are reported, the policies and procedures in place to protect and maintain the confidentiality of the victim, and the resources available to victims of these offenses.

There are no funds authorized for this section.

TITLE IV—VIOLENCE REDUCTION PRACTICES

Sec. 401. Study conducted by the Centers for Disease Control and Prevention

This section continues to authorize funding to the Centers for Disease Control and Prevention ("CDC") to provide grants to academic institutions and organizations to conduct research that ex-

amine best practices for reducing and preventing domestic violence, dating violence, sexual assault, and stalking. The authorized funding for this research is reduced from $2 million to $1 million.

Sec. 402. Saving Money and Reducing Tragedies through prevention grants (SMART)

As discussed in section 302 (above), VAWA and its subsequent reauthorizations created several programs that address child and youth victims of domestic violence, dating violence, sexual assault, and stalking. While section 302 combined four related programs into one that addresses victim services and education, this section consolidates an additional four programs into one grant aimed at prevention. The new "SMART" grant provides funds for three primary purposes: (1) raising awareness and changing attitudes about teen dating violence; (2) preventing, reducing, and responding to children's exposure to violence at home; and (3) helping men to serve as role models in preventing domestic violence, dating violence, sexual assault, and stalking.

The authorized funding for this consolidated program is $15 million, a $22 million reduction from the $37 million authorized for the individual programs.

TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 501. Consolidated grants to strengthen the healthcare system's response to domestic violence, dating violence, sexual assault, and stalking

An essential component in combating domestic violence, dating violence, sexual assault, and stalking is engaging the healthcare profession to provide services to victims and train professionals in identifying signs of victimization. This section consolidates three existing VAWA programs related to the healthcare system's response to the four crimes and creates a comprehensive updated program that focuses on grants for developing interdisciplinary training for health professionals and education programs for health professions students. It also encourages the development of comprehensive strategies to improve the response of hospitals, clinics, and other public health facilities to domestic violence, dating violence, sexual assault, and stalking. A grantee may be a nonprofit organization, a healthcare provider, an accredited healthcare school, or a State, local, or tribal governmental entity. Grantees are also required to comply with relevant confidentiality and nondisclosure requirements.

The authorized funding for this consolidated program is $10 million, a $3 million reduction from the $13 million authorized for the individual programs.

TITLE VI—SAFE HOMES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 601. Housing protections of victims of domestic violence, dating violence, sexual assault, and stalking

One of the continuing obstacles faced by victims of domestic violence, dating violence, sexual assault, and stalking is the avail-

ability of temporary or permanent housing. The 2005 reauthorization of VAWA added crucial protections that prevented applicants from being evicted from or denied admission to certain housing programs because they were victims. This section modifies the substance and the scope of those housing protections in three significant ways. First, it extends the housing protections to victims of sexual assault. Second, it replaces the term "immediate family member" with "affiliated individual" in referring to other victims associated with the tenant that are protected under this provision. The change was made to better reflect the terminology used by the housing industry. Third, the VAWA housing protections are extended to nine Federal programs that are not covered currently, including the McKinney-Vento Act, which provides housing for the homeless, the HOME Improvement Partnership Program, the Low Income Housing Tax Credit, and the Rural Housing Services program.

There are no funds authorized for this section.

Sec. 602. Transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault, and stalking

The Transitional Housing Assistance program focuses on a comprehensive victim-centered approach to provide transitional housing services that move individuals into permanent housing and for victims for whom emergency shelter services are unavailable or insufficient. This highly successful program is reauthorized at a slightly lower funding level and also clarifies that a qualified applicant is one whose policies protect victim safety, reflect an understanding of the dynamics of the four covered crimes, and do not include prohibited activities such as background checks or clinical evaluations to determine eligibility for services. The section also enhances a victim's ability to become independent from the abuser by allowing grant funds to be used for job training and employment counseling.

The authorized funding for Transitional Housing is reduced from $40 million to $35 million.

Sec. 603. Addressing the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking

This section reauthorizes two VAWA housing programs. The first awards grant funds to entities that assist victims who are currently homeless or at risk of becoming homeless by designing and implementing new activities, services, and programs to increase their stability and self-sufficiency. The second program provides grants to promote full and equal access to housing by adult and youth victims.

The authorized funding for each program is reduced from $10 million to $3 million.

TITLE VII—ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

Sec. 701. National Resource Center on Workplace Responses to assist victims of domestic and sexual violence

This section reauthorizes funding for the operation of the National Resource Center on Workplace Responses, which provides in-

formation and assistance to employers to aid in efforts to develop and implement responses to domestic and sexual violence.

The authorized funding for the National Resource Center is maintained at $1 million.

TITLE VIII—PROTECTION FOR BATTERED IMMIGRANTS

Sec. 801. U nonimmigrant definition

The U visa is a valuable law enforcement tool that is available to non-citizen victims of certain enumerated crimes, listed at section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii)), who have been or are likely to be helpful to the investigation or prosecution of the crime. Current law includes domestic violence and sexual assault in the list of enumerated crimes, and this section adds stalking.

Sec. 802. Annual report on immigration applications made by victims of abuse

This section requires the Secretary of Homeland Security to report annually on the number of persons who have applied for and been granted or denied a petition for a T or U visa or a VAWA self-petition; the mean and median time it takes DHS to adjudicate such petitions; the mean and median time between receipt of an application for work authorization related to such petitions and the issuance of authorization to eligible applicants; the number of victims of trafficking granted continued presence; and any efforts being taken to reduce processing and adjudication time for the above.

Sec. 803. Protections for children of VAWA self-petitioners

In 2009, Congress enacted the so-called "widow's and widower's fix" to enable a spousal-based petition for lawful permanent residence (LPR) to survive when a U.S. citizen spouse died after filing the petition for their non-citizen spouse. Prior to this change in the law, the non-citizen spouse could not be granted LPR status based on the spousal petition, because the basis of the petition had ceased to exist when the U.S. citizen spouse died. This section of the bill will add the minor children of VAWA self-petitioners to the immigration statute's "widow's and widower's fix," but in this case the beneficiaries will not be surviving spouses, but rather the surviving minor children of VAWA self-petitioners. Spouses, parents, and extended family members would not be eligible.

Sec. 804. Public charge

Typically a non-citizen who is likely to become a public charge is considered to be inadmissible to the United States. Inadmissibility is reviewed when the applicant seeks relief—such as VAWA protection, a T visa for trafficking victims, or a U visa for victims of certain crimes—and again when that same person later seeks to adjust their status to lawful permanent resident.

Congress has previously enacted laws recognizing that such individuals are deserving of protection and/or immigration status in the United States. This section makes explicit that such persons should, therefore, not be barred from admission on public charge grounds. Specifically, this section amends the INA to clarify that

the following persons are exempt from the public charge inadmissibility ground: An individual who is a VAWA self-petitioner, a U visa petitioner or holder, and a T visa holder. (A T visa petitioner is currently eligible for a waiver from public charge inadmissibility, and these waivers are regularly waived.)

Recipients of U visas are not entitled to any benefits other than a work permit, and this section would not make them eligible for any new benefits.

Sec. 805. Requirements applicable to U visas

In the past two years, the current annual cap of 10,000 U visas has been reached prior to the end of the fiscal year. The Secretary of Homeland Security asked Congress to increase the cap to 20,000 per year. Rather than increase the cap outright, this section allows DHS to draw from a pool of previously authorized but never issued U visas if the annual cap is reached in a given fiscal year. In those circumstances, no more than 5,000 recaptured U visas may be issued between the point when the cap is reached and the end of the fiscal year.

This section also makes a technical fix requested by DHS. A U visa holder may petition for his or her child to obtain a derivative U visa. However, in some cases, because the agency takes time to adjudicate the petition, the child may "age out" of eligibility if he or she reaches the age of 21 before the adjudication is completed. This section clarifies that, if the principal U visa applicant files a petition while the derivative child is under 21 years of age, the child will be treated as under 21 for the purposes of adjudication as a derivative.

Sec. 806 Hardship waivers

Typically, immigration law requires a non-citizen spouse of a U.S. citizen or lawful permanent resident (LPR) who has applied for lawful permanent residence to wait two years before seeking to remove his or her conditional status and apply for lawful permanent resident status. Waivers of the two-year period of conditional status are available at the discretion of the Secretary of Homeland Security under certain circumstances where the non-citizen spouse suffers a hardship, such as where the non-citizen spouse was a victim of abuse at the hands of the U.S. citizen spouse. This section would extend the discretion of the Secretary to grant a waiver in a situation where the abuse occurred at the hands of a U.S. citizen or LPR spouse, but the underlying marriage was invalid because the U.S. citizen or LPR committed bigamy unbeknownst to the non-citizen victim spouse.

Sec. 807. Protections for a fiancée or fiancé of a citizen

This section strengthens the existing International Marriage Broker Regulation Act (IMBRA) in several ways to protect foreign fiancés and fiancées of U.S. citizens from entering abusive or violent marriages. First, it requires that a petition filed by a U.S. citizen for a K visa (for a foreign fiancé or fiancée) include information about any permanent protection orders or restraining orders that have been issued against the U.S. citizen petitioner. Such information will be seen in advance by the potential K visa recipient,

enabling that individual to make an informed decision about whether to proceed with the marriage.

Second, this section expands the list of specific criminal convictions that must be disclosed in a petition for a K visa. Current law requires disclosure of the crimes of domestic violence, sexual assault, child abuse and neglect, and stalking. This section adds convictions for the attempt to commit any of those crimes to the list that must be disclosed.

Third, this section requires the Secretary to notify the State Department if a U.S. citizen petitioner has had two K visa petitions approved in the prior ten-year period, and requires the State Department to make such information available to the potential K visa recipient.

Fourth, this section requires the Secretary of Homeland Security to run an NCIC background check on K visa petitioners and to turn over any background information to the State Department, which is then required to turn it over to the potential K visa recipient.

Fifth, this section requires the Secretary to produce a cover sheet to accompany negative information (including any criminal convictions or protection orders, and whether the U.S. citizen petitioner accurately disclosed the number of prior K visa petitions). The cover sheet is designed to ensure that the potential K visa recipient is aware of any negative information about the U.S. citizen petitioner.

Sec. 808. Regulation of International Marriage Brokers

This section requires an International Marriage Broker to collect proof of age from the potential K visa recipient in order to ensure that the foreign fiancée or fiancé is of the age of consent. This section also requires the GAO to report on implementation of IMBRA.

Sec. 809. Eligibility of crime and trafficking victims in the Commonwealth of the Northern Mariana Islands to adjust status.

The Secretary of Homeland Security asked Congress to make the following technical fix to the immigration law. The Consolidated Natural Resources Act of 2008 (the CNRA) made the U.S. territory of the Commonwealth of the Northern Marianas (CNMI) a part of the United States for purposes of U.S. immigration law as of November 28, 2009. Prior to that date, victims of trafficking or certain other crimes who were physically present in the CNMI were able to apply for T or U visas, but a grant of such status did not actually confer upon the victim a "nonimmigrant" status unless the visa holder was admitted to the United States in Guam or elsewhere. As a result, such visa holders could not begin to accrue time toward the three-year continuous presence requirement for adjusting their status to lawful permanent resident. To conform with the CNRA, this section allows T and U visa holders who are physically present in the CNMI to count their time toward the three-year requirement of continuous presence.

TITLE IX—SAFETY FOR INDIAN WOMEN

Sec. 901. Grants to Indian tribal governments

This section improves an existing grant program targeted at curbing domestic violence, sexual assault, dating violence, and stalking in Indian country, by extending its coverage to sex trafficking crimes. It also adds two purpose areas to the program. The first allows grant money to go toward developing and promoting best practices for responding to domestic violence, dating violence, sexual assault, sex trafficking, and stalking in Indian country. The second allows grant money to go toward providing services to address the needs of youth in Indian country who are victims of domestic violence, dating violence, sexual assault, sex trafficking, or stalking and the needs of children exposed to domestic violence, dating violence, sexual assault, or stalking.

Sec. 902. Grants to Indian tribal coalitions

This section improves the existing tribal coalition grant program, by incorporating a purpose area that would allow grant money to go toward developing and promoting policies that promote best practices for responding to domestic violence, dating violence, sexual assault, sex trafficking, and stalking. A new funding formula is added to ensure that established and emerging coalitions receive adequate resources. To this end, a 5 percent set-aside is included in the GTEAP program (sec. 102).

Sec. 903. Consultation

Current law requires the Attorney General to consult annually with Indian tribal governments on the Federal administration of programs funded by VAWA. This section requires the Attorney General to report to Congress on the annual consultations, and on the administration's recommendations for administering tribal funds and programs, enhancing the safety of Indian women, and strengthening the Federal response to such violent crimes.

Sec. 904. Tribal jurisdiction over crimes of domestic violence

This section would recognize certain tribes' concurrent jurisdiction to investigate, prosecute, convict, and sentence persons who assault Indian spouses, intimate partners, or dating partners, or who violate protection orders, in Indian country. This provision recognizes that tribal nations may be best able to address violence in their own communities. Neither the United States nor any State would lose any criminal jurisdiction as a result. This section effectively guarantees that defendants will have the same rights in tribal court as in State court, including due-process rights and an indigent defendant's right to free appointed counsel meeting Federal constitutional standards. It also authorizes grants to assist tribes with carrying out this section.

The authorized funding for this section is $5 million.

Sec. 905. Tribal protection orders

At least one Federal court has misinterpreted 18 U.S.C. 2265 to hold that tribes lack civil jurisdiction to issue and enforce protection orders against certain non-Indians who reside on reservation lands. This undermines the ability of tribal courts to protect vic-

tims and maintain public safety. This section clarifies the intent of current law, namely that tribal courts have full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian. The language of this section does not in any way alter, diminish, or expand tribal criminal jurisdiction or existing tribal authority to exclude individuals from Indian land.

Sec. 906. Amendments to the Federal assault statute

This section amends the Federal Criminal Code to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating; a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily injury; and a one-year offense for assaulting a person by striking, beating or wounding. These changes will enable Federal prosecutors to more effectively combat three types of assault frequently committed against women in Indian country and to appropriately address the gradual escalation of seriousness often associated with domestic violence offenses.

Sec. 907. Analysis and research on violence against Indian women

This section expands a baseline study of violence committed against Indian women to include women in Alaska Native Villages and sex trafficking crimes. Authorized funding for the study is maintained at $1 million. This section also maintains the $1 million authorization for tribal sex offender registries.

Sec. 908. Effective dates; pilot project

This section sets the effective date for this title as the date of enactment for the bill with the exception of section 904 which would go into effect two years after the date of enactment. This delay is intended to give tribes time to amend their codes and procedures as necessary to exercise the jurisdiction established by section 904. For tribes wishing to implement the changes in section 904 on an accelerated basis, this provision gives them a mechanism to do so through a pilot project.

Sec. 909. Indian Law and Order Commission

This section extends the Indian Law and Order Commission reporting deadline from two years to three years. It also directs the Attorney General to report to Congress within one year after enactment whether the Alaska Rural Justice Law Enforcement Commission should be continued.

TITLE X—OTHER MATTERS

Sec. 1001. Criminal provisions relating to sexual abuse

This section prohibits a person who has supervisory or custodial authority over a person who is under arrest, on pretrial release, on probation, or otherwise under supervision pending further judicial proceedings from engaging in sexual activity with the person who is under his or her supervisory or custodial authority. Current law only prohibits such sexual activity with a person in official detention, yet the same imbalance of power and potential for abuse of authority exists in the supervised release context. This section would prohibit such conduct if it occurs in the special maritime and

territorial jurisdiction of the United States or if the person engaging in the sexual activity was exercising Federal supervisory or custodial authority.

This section also makes the penalties for criminal civil rights violations involving sexual abuse consistent with the penalties for sexual abuse in other Federal statutes. Currently, civil rights violations involving sexual abuse are punished only as misdemeanors, even though the same sexual misconduct would garner serious felony penalties under other Federal statutes if it occurred on Federal land or was within other Federal jurisdiction.

Sec. 1002. Sexual abuse in custodial settings

This section reflects the congressional intent in passing the Prison Rape Elimination Act of 2003 (PREA) to prevent sexual assault in Federal facilities. That law required the Attorney General to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities under the authority of the Department of Justice. When PREA was introduced, all criminal and immigration detention facilities were under the authority of the Department of Justice. When the Homeland Security Act of 2002 was enacted, however, adult immigration authority was transferred to the Department of Homeland Security (DHS), and the authority for detaining unaccompanied minors was transferred to the Department of Health and Human Services (HHS). This provision would ensure that DHS and HHS facilities are covered by PREA.

Sec. 1003. Anonymous online harassment

This section adds amends the Harassing Telephone Calls crime (47 U.S.C. § 223) by removing the intent to "annoy" as an element of one of the crimes. It also modifies who may be an intended victim in order to cover harassing communications that are intended for, but not directly received by, a specific person.

Sec. 1004. Stalker database

This section reauthorizes a grant program that helps ensure that data regarding stalking and domestic violence is accurately entered into local, State, and national crime information databases.

Sec. 1005. Federal victim assistants

This section reauthorizes a grant program to appoint victim assistants who aid in the prosecution of sexual assault and domestic violence crimes.

Sec. 1006. Child abuse training for judicial personnel and practitioners

This section reauthorizes a training grant for judges, child welfare advocates, and other judicial personnel to improve child service agencies. This program has traditionally been reauthorized by VAWA.

Sec. 1007. Mandatory minimum sentence

This section amends Federal criminal law to require a five-year mandatory minimum sentence to the crime of aggravated sexual assault under 18 U.S.C. § 2241(a).

Sec. 1008. Removal of drunk drivers

This section adds habitual drunk driving to the list of aggravated felonies for which an alien may be deported. Specifically, a third drunk driving conviction will be treated as an aggravated felony under the Immigration and Nationality Act, leaving an alien subject to removal. The amendment has prospective effect only, as of the date of enactment of this legislation. It does not apply retroactively.

IV. Congressional Budget Office Cost Estimate

The cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available for inclusion in this report. The estimate will be printed in either a supplemental report or the Congressional Record when it is available.

V. Regulatory Impact Evaluation

Passage of S. 1925 would require the promulgation of rules adopting national standards for the detection, prevention, reduction, and punishment for rape and sexual assault in facilities that maintain custody of aliens detained for a violation of the immigration laws of the United States.

VI. Conclusion

This legislation builds upon Congress's commitment to comprehensively combat violence against women. It maintains and enhances the important programs and initiatives established in the Violence Against Women Act to prevent domestic violence, sexual assault, dating violence, and stalking; hold accountable the perpetrators of those terrible crimes when they occur; and provide services that help victims of these crimes put their lives back together. As with previous reauthorizations of VAWA, this bill includes modest modifications to respond to needs reported by those who work with victims of these crimes on a daily basis. The Committee recommends that the Senate pass this bill.

VII. Minority Views

MINORITY VIEWS FROM SENATORS GRASSLEY, HATCH, KYL, AND CORNYN

The Violence Against Women Act has been reauthorized several times since its original 1994 enactment, most recently in 2005. It has always been consensus and bipartisan legislation. If all S. 1925 did was reauthorize the valuable programs that VAWA authorizes, we would be supporters of the bill. We would even agree to many of the changes and additions to VAWA that are contained in S. 1925. However, the reauthorization before us goes far beyond the spirit and purpose of the original Act and adds new, controversial provisions that we cannot support as part of VAWA.

It is unfortunate how the Judiciary Committee majority has proceeded in addressing VAWA, along with other bills, this Congress. The majority has performed the seemingly impossible feat of turning legislation that has enjoyed widespread, bipartisan support over many years into yet another bill that was reported on a party line vote. It is unfortunate that the majority proceeded to push through this legislation without a unified voice. The majority could have raised the issues that have destroyed the consensus of support for VAWA as part of the VAWA reauthorization process at the VAWA hearing that the Committee held. In theory, it could have gathered information that problems existed that current law did not address. It could have demonstrated that its proposals addressed actual problems, that the proposals had been carefully crafted to resolve those needs, that the consequences, including unintended consequences of these proposals had been identified and minimized. It did not do so.

The majority could have asked us to provide input on prospective changes to VAWA before a bill was introduced. It did not do so. Instead, a proposal was sprung on the minority with no notice that it contained tangential provisions that have never been part of the bipartisan VAWA. The majority should have known that a bill that contained these items would never engender the support of Committee Republicans or would ever pass both houses of Congress. Yet the majority insisted on maintaining these provisions despite our initial response that no bipartisan support could be obtained so long as they remained in the bill. They remained and the bipartisan support vanished that could have been obtained.

The majority has continued to pursue a process that has failed to produce the results that it seeks. Time and again, the majority has passed bills out of the Judiciary Committee on a party line vote. Time and again, those bills have not become law. The Committee's reported version of VAWA reauthorization will also not become law. For the sake of the victims of domestic violence in this

country, we urge the majority to work with us to develop another truly bipartisan VAWA bill that can pass both houses and be signed into law.

We outline below our specific concerns about the bill that the Committee reported. We note, however, that time continues to elapse. The time that could have been used to perpetuate VAWA on a consensus basis was wasted on a bill that will not pass. It is not too late to reauthorize VAWA, but reauthorization will require that our significant objections to the reported bill be alleviated. So far, there has been an unwillingness to take our position into account. We urge our colleagues to act responsibly.

The Violence Against Women Act has done much good over the years. We have seen in our states the services that are provided and the victims who are helped. We agree with the majority and with supporters of the bill that the programs that VAWA currently funds should be reauthorized. But it does not follow that therefore S. 1925 should be enacted. And supporters should know that whether or not a reauthorization bill passes, VAWA will still be funded. No reauthorization is needed for that to occur. In fact, the current VAWA authorization has expired. We would prefer that VAWA be funded under the prior consensus authorization law than under the provisions of S. 1925.

In its handling of legislation to reauthorize VAWA, the Judiciary Committee majority did agree to hold a hearing on the legislation. The minority focused on problems that have arisen with the current legislation: a failure to ensure the tracking of funds to reach the intended recipients and the fraud that has occurred in granting visas to immigrant spouses who falsely claim abuse at the hands of their American spouse. We believe that the Chairman was receptive to changes to the program for which a need was demonstrated at the hearing.

We raise our concerns with respect to the non-consensus items that were included in S. 1925 in the hope that the majority will be persuaded to change course in time to once again develop a consensus bill to reauthorize VAWA that can become law.

TRIBAL COURT JURISDICTION OVER NON-INDIANS

Section 904 of S. 1925 would make significant changes in the prosecution of domestic violence crimes in Indian Country. The Committee's consideration of the issue has been shockingly cursory. The report contains one paragraph that addresses these changes, and does nothing more than repeat those paragraphs in its section by section analysis of section 904. We believe that much deeper inquiry is necessary.

For instance, section 904 of S. 1925 states that it recognizes the "inherent power" of Indian tribes "which is hereby recognized and affirmed, to exercise special domestic violence criminal jurisdiction over all persons." "[A]ll persons" includes non-Indians. S. 1925, for the first time in the nation's history, would extend to tribal courts criminal jurisdiction over non-Indians. That is a significant change. The majority report does not even mention this fact. It does not explain why the change is necessary. It cites no evidence of need for the change. It does not explain why its proposed solution is the right one, will effectively address the problem and will not raise ad-

ditional problems, and will not establish any negative precedent for the future. It was not the subject of any hearing in the Judiciary Committee, notwithstanding its significance.

All the majority says is that "tribal nations may be best able to address violence in their own communities." Maybe they are best able. Maybe they are not. The majority report offers only speculation as a basis to change the law in an unprecedented way. It has not and does not identify any reason for this change.

The majority report also suggests that it desires to prosecute a broad spectrum of domestic violence offenses. It offers no reason based on the experience of tribal courts in criminally prosecuting Indians across a broad spectrum of domestic violence cases to support its assertion that the changes in section 904 are warranted.

The majority report correctly notes that section 904 "requires participating tribes to grant defendants all rights guaranteed by the United States Constitution and authorizes grants to assist tribes with carrying out this section." On what basis is the majority report confident that all tribes are able to provide all defendants with all rights guaranteed by the United States Constitution? Do the tribes have the expertise and resources to do so? On what basis does it think that the relatively small amount of money to provide grants to tribes will be sufficient to ensure that these defendants will be provided all rights in all prosecutions authorized under section 904? What is the estimate on caseload, cost, and other effects on the docket of federal district courts that would have to consider habeas corpus proceedings brought after tribal courts exercised their "inherent powers" under section 904? So far as is evident, the majority report has given no thought whatsoever to any of these matters.

Nor has the majority report considered the changes in law enforcement operations that would occur if this provision became law, the positives and negatives of the ensuing transition, what resources would be needed, and what oversight would occur of these proceedings.

There is no question concerning the importance of federal responsibility for law enforcement and social services for Indian tribes. And we believe in tribal self-government. But the law today makes clear that there is no inherent power of tribes to do anything of the sort the bill says. Self-government is not government over "all persons"—including non-Indians. Because tribes lack this power, it is untrue to say that Congress can recognize and affirm it. And the bill goes much further than changing something for the future. It says that something inherently already exists that does not now exist.

Why would Congress, should it decide for the first time to make such a change, do so on a bill to reauthorize VAWA? Why should domestic violence cases be the first criminal cases to be treated in this way? What precedent would be created that might lead to other prosecutions of non-Indians in tribal courts?

The best way to improve the enforcement of laws against domestic violence in Indian territory is for the federal government to provide the appropriate resources necessary to fulfill those important responsibilities. The substitute amendment that Senator Grassley offered would strike these provisions until the dimensions of any

problem, the advisability of the proposed changes, the effect of changing existing law enforcement relationships, and the other fundamental questions we have raised have been studied, answered, and addressed.

UNDERSERVED POPULATIONS

Section 3 of S. 1925 would prohibit discrimination by grantees on the basis of sexual orientation or gender identity. The majority report states that different laws, such as the Omnibus Crime Control and Safe Streets Act and Title VI of the Civil Rights Act of 1964, which govern different VAWA grant programs, contain inconsistent anti-discrimination language. The majority contends that its language "codif[ies] and ensure[s] consistency in civil rights protections." However, Section 3 codifies nothing. It adds new provisions to the law that exist in neither of the underlying laws that govern VAWA grant programs. In fact, it adds new provisions that do not apply to any federal grant programs. It does so once again, without the Committee having held any hearing to determine that these provisions are needed. Rather than treating all domestic violence victims as individuals who deserve services on the basis of their individuality, the bill pits victims against victims based on group membership status.

Of course, we agree that shelters and other grant recipients should provide services equally to everyone. This provision, however, is a solution in search of a problem. Instead, it appears to be only a political statement that should not be made on a bill that is designed to address actual needs of victims. The majority and advocates of this provision have not produced data that shelters have refused to provide services for these reasons. This is true even after we were told they would send a report on the subject. We continue to speak with advocates to determine what evidence, if any, exists that shows that individuals are being denied domestic violence related services by entities that receive taxpayer funds under VAWA. Very shortly before the deadline for this report, we received anecdotal information on the subject, but persuasive data and evidence of actual discrimination by VAWA grantees remains elusive.

We agree that there is evidence that the current female-specific statutory language of STOP grants under VAWA has been interpreted to deny funding to providers of services to men, including to gay men. Our substitute eliminates this language and statutorily-created discrimination.

The substitute amendment we supported, EAS12031, authorizes a study to determine the reasons why domestic violence services are not provided to the individuals who do not receive them. We need real data on this subject. As the witness from the Government Accountability Office testified before the Committee in July, "Having better and more complete data on the prevalence of domestic violence, sexual assault, dating violence, and stalking, as well as related services provided to victims of these crimes, can without a doubt better inform and shape the federal programs intended to meet the needs of these victims." This is precisely the type of information that will help ensure we aren't wasting money on ineffective programs. Once we have this data, then we can enact legislation that really serves those who are underserved.

This provision is more than an aspirational statement that discrimination should not occur. Enforcement of this provision, as in other federal anti-discrimination provisions associated with the treatment of individuals by recipients of federal funds, would occur through litigation brought by the federal government. Regrettably, there is an insufficient capacity to provide services to all victims of domestic violence in this country. Some victims will necessarily not receive services at particular facilities at particular times. If it is enacted, individuals may claim that discrimination has occurred even if services have been denied for wholly non-discriminatory reasons. Federal bureaucrats will investigate. Lawsuits will be brought. Shelters and other providers of services to domestic violence will be required to expend resources that would otherwise be spent on such services on attorney fees instead. If there is no evidence that individuals are being discriminated by VAWA recipients for prohibited reasons, then enacting this provision could well harm the availability or quality of needed domestic violence services to all victims.

S. 1925 creates so many new programs for underserved populations that it risks losing the focus on helping victims. For instance, the programs for youth now cover people who are up to age 24 and there is a program for older victims, defined as over 50. Most of the population is under 24 or over 50. But by definition, only a minority of the population can be underserved.

There are so many programs for underserved groups that many women will be targeted by multiple programs. That does not make sense. Consider that men are victims of various kinds of sexual violence—as a letter from state Attorneys General points out, 1 in 71 men outside prison is a rape victim. Those victims face a large social stigma in seeking help. Are we going to now create programs for underserved male victims as well? If every group is a priority, no group is a priority.

ACCOUNTABILITY

S. 1925 contains some measures to enhance accountability for grantees but more is needed. The Department of Justice Inspector General (OIG) conducted a review of 22 individual VAWA grantees from 1998 to 2010. Of these 22 randomly selected grantees audited by the OIG, 21 were found to have some form of violation of grant requirements ranging from unauthorized and unallowable expenditures, to sloppy recordkeeping and failure to report in a timely manner.

In 2010, one grantee was found by the Inspector General to have questionable costs for 93% of the nearly $900,000 they received from the Department of Justice. A 2009 audit found that nearly $500,000 of a $680,000 grant was questionable. These randomly selected audits raise serious questions about how the VAWA grantee is utilizing federal funds and whether the program is realizing its true potential given the significant amounts of funds that the OIG found were not expended on serving victims. Any dollar that is lost to fraud, waste, or abuse of programmatic requirements is a dollar that is not serving victims. We believe that those found to have abused program requirements should not continue to receive federal funds until they can prove that they have reformed their er-

rant ways. Given the current fiscal environment and ballooning national debt, the American taxpayers deserve a baseline of accountability from those who have the privilege of receiving federal taxpayer funds.

In addition to the OIG audits of individual grantees, the Government Accountability Office (GAO) testified, at Ranking Member Grassley's request, as part of the hearing on reauthorizing VAWA in July 2011.[1] GAO's testimony followed up on work that was requested by Congress as part of the 2006 reauthorization of VAWA. Specifically, this past work addressed the prevalence of domestic violence, dating violence, sexual assault, and stalking and the services available to the victims of each of these terrible crimes.[2] GAO's testimony upheld the basic findings from 2006, namely, that current research as to the prevalence of domestic violence and sexual assault was limited and that less research was conducted on dating violence and stalking.[3] GAO added that while efforts were underway at both the Department of Justice and the Department of Health and Human Services to increase the data collected nationwide on domestic violence, gaps remain in studying these occurrences.[4] Further, GAO found that inconsistencies in reporting requirements across 11 different grant programs administered by the Department of Justice and the Department of Health and Human Services created uneven and inconsistent data on these various crimes.[5] As a result, GAO concluded its testimony by stating, "there are important issues to consider in moving forward on the reauthorization of VAWA. Having better and more complete data on the prevalence of domestic violence, sexual assault, dating violence, and stalking as well as related services provided to victims of these crimes can without a doubt better inform and shape federal programs intended to meet the needs of these victims."[6] Unfortunately, the majority's reauthorization bill fails to increase or harmonize the collection of data to support various VAWA initiatives, despite the work from the GAO dating back to the last reauthorization. We agree with the GAO's view that this data would not only be helpful to Congress as part of this reauthorization, but would also assist victims by ensuring that resources are adequately appropriated to impact those with, or providing services to those with, the greatest need.

To address concerns about fraud, waste, and abuse of VAWA-related grant programs, the Grassley substitute amendment included a comprehensive accountability package for VAWA grants. A similar package was included as part of the reauthorization of the Trafficking Victims Protection Act Reauthorization (S. 1301).[7] As noted in the Additional Views to S. 1301, despite repeated assurances from the Justice Department that grant program oversight is paramount and that past maladies have been remedied, programmatic

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[1] The Violence Against Women Act: Building on 17 Years of Accomplishments: Hearing Before the Senate Comm. on the Judiciary, 112th Cong. (July 13, 2011).

[2] *Id.* (statement of Eileen Lawrence, Director, Homeland Security and Justice, U.S. Government Accountability Office).

[3] *Id.* at 4.

[4] *Id.*

[5] *Id.* at 9.

[6] *Id.* at 11.

[7] Trafficking Victims Protection Reauthorization Act of 2011, S. 1301, 112th Cong. § 226 (2011) (as reported from the Judiciary Committee).

violations continue to occur. Given the difficult financial situation the federal government currently faces, we continue to believe only the most capable grantees that have demonstrated an ability to follow program requirements should be funded.

Specifically, this package of accountability reforms includes the following: (1) requires an annual audit of 10% of all grantees by the Inspector General; (2) requires a two-year exclusion for any grantee found to have an unresolved audit finding for more than twelve months; (3) requires the Attorney General to prioritize grants to grantees that do not have a negative audit finding for the last three fiscal years; (4) requires the Attorney General to reimburse the federal treasury if a barred grantee is awarded funds, then seek to recoup funds from the erroneous award to the grantee; (5) prohibits the Attorney General from awarding grants to any nonprofit organization that holds money offshore for the purpose of avoiding unrelated business income tax (UBIT); (6) caps administrative expenses; (7) requires the Deputy Attorney General or Assistant Attorney General to pre-approve conference expenditures and annually report to Congress; (8) prohibits grantees from using taxpayer dollars to lobby for additional taxpayer funds; and (9) requires the Assistant Attorney General for the Office of Justice Programs, and Deputy Secretary of Health and Human Services to certify annually to Congress compliance with the mandatory exclusions and reimbursements contained in the bill.

These accountability requirements are a commonsense proposal to ensure a baseline of accountability for federal grantees receiving federal funds under VAWA. They are a response to problems that have arisen in the VAWA program, in addition to others—including crossover with the TVPA administered by the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and Community Oriented Policing Services (COPS). Although S. 1925 does include a modified version of some of these accountability proposals, and the majority report briefly outlines them, the provisions contained in S. 1925 are a watered down version of the same accountability proposals that were supported by a vote of 12–6, with all members of the majority supporting them. Notable differences between the Grassley substitute and S. 1925 include the fact that S. 1925 does not require a mandatory percentage of audits, but instead leaves it to the Inspector General to determine how many audits to conduct, and differences between limitations on conference expenditures. S. 1925 also fails to include a percentage limitation on how much the Department may use for administrative costs. Finally, and most importantly, S. 1925 fails to include a limitation on using federal grants to lobby for additional grant dollars. These are important provisions. By omitting them, the accountability package in S. 1925 is significantly weaker than previous accountability standards that the Committee adopted on TVPA, raising questions why the majority believes it is necessary to hold TVPA grantees more accountable than VAWA grantees.

AUTHORIZATION OF APPROPRIATIONS

While S. 1925 takes a necessary step forward to reduce the authorization levels for VAWA that are grossly disproportionate to the annual appropriations, more work remains to address the cur-

rent fiscal realities the federal government faces. S. 1925 consolidates a number of VAWA grant programs into four and reduces the overall authorization by $135 million. However, the annual authorization of VAWA programs in S. 1925 is still $682.5 million per year for five years. Compared to annual appropriations of just over $500 million for Fiscal year 2012, that represents a nearly $182 million overage in authorizations compared to appropriations.

The action of continually authorizing more money than is available via annual appropriations has real consequences. For example, continually overspending at the authorization levels send conflicting signals to the Appropriations Committee as to how to fund the programs. Over-authorizing has a practical effect as well—it essentially delegates the decision making process from the Judiciary Committee to the Appropriations Committee. Because the Appropriations Committee does not have enough money to fund every program we authorize at the levels we authorize, they become the ultimate decider of what is and is not funded. So, if the goal is to fund worthy programs, we should simply tell the Appropriations Committee what programs we want prioritized. Artificially inflating authorization levels to signal the funding worthiness of a program gives false hope to potential grantees and advocates. It also places the burden on the Appropriators to make difficult funding decisions, instead of making those difficult decisions in the Judiciary Committee.

To address this concern, the Grassley substitute would reauthorize all key VAWA programs, including the new consolidated grant programs that S. 1925 would create, while reducing the authorization amount to recognize the current fiscal environment. The Grassley substitute would fund VAWA programs at $484.5 million over the 5 year period. This amount recognizes that the VAWA programs will likely remain funded at or below the $500 million appropriated in FY2012. It carefully balances those reductions by authorizing spending in line with annual appropriations. For example, the substitute would reauthorize the STOP Grants at $189 million per year, the same amount requested in President Obama's FY2013 Budget.[8] Similarly, the substitute authorizes $23 million per year for the Sexual Assault Services Program, the same amount as requested by President Obama's FY2013 Budget.[9] Both of these programs were also appropriated in FY2012 at the levels matching the proposed authorizations in the substitute and the President's FY2013 Budget request.

Taken together, the authorizations in the Grassley substitute recognize the fiscal realities while at the same time ensuring that the Judiciary Committee maintains ultimate control over funding decisions for the VAWA programs it has the responsibility for reauthorizing.

CONSOLIDATION OF OFFICE OF VIOLENCE AGAINST WOMEN

The Office of Violence Against Women (OVW) was created in 2002 when Congress passed legislation making it a permanent part

[8] Office of Management and Budget, Fiscal Year 2013 Budget of the United States Government, Department of Justice, 805 (Feb. 13, 2012) available at http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/jus.pdf.

[9] *Id.*

of the Justice Department.[10] This legislation created a third separate and distinct office within the Justice Department that awards grants. Together with the Office of Justice Programs (OJP) and the Community Oriented Policing Services Office (COPS), OVW awards and manages grants to state and local governments, and individual grantees awarded funding under VAWA and TVPA. Although these offices issue a number of grants to the same entity, namely state and local law enforcement, they continue to operate in different silos, focusing only on their distinct program mandates. Thus, it is entirely possible that individual grantees could receive funding from more than one of these entities for similar or identical purposes. In fact, the GAO recently testified before the Committee that under another grant program, grantees could utilize funding from one program to theoretically pay down the matching requirement of another grant administered by a different office.[11] This same scenario could play out with a number of different grant programs that duplicate or overlap with corresponding grant programs administered by different awarding offices.

This situation creates administrative inefficiencies and also complicates the grant awarding process. To address these inefficiencies, the Grassley substitute would transition OVW to OJP as a component grant writing agency. This transfer is *not* an elimination of OVW as some have claimed. OVW would continue as a coordinate agency, within OJP, just as the Bureau of Justice Statistics (BJS), Bureau of Justice Assistance (BJA), Office of Juvenile Justice and Delinquency Prevention (OJJDP), and Office of Victims of Crime (OVC). This restructuring would allow OVW to leverage existing resources and efficiencies within OJP—namely, grant monitoring and oversight—while maintaining its role as the policy advisory arm to the Attorney General on domestic violence issues. The administrative transfer of OVW to OJP would *not* impact the OVW Director's role as the Counsel to the Attorney General on the subject of violence against women. Further, the OVW Director would still be presidentially appointed by and with the consent of the Senate, indicating no loss in stature for the Director nor the issue of violence against women.

The administrative restructuring in the Grassley substitute is a necessary step to improve the efficiency and coordination of the grant awarding process at the Justice Department. More work remains to leverage the existing resources and eliminate potential duplication and overlap. This proposal is a step toward meeting that ultimate goal. It is unfortunate that S. 1925 does not contain a corresponding realignment. However, it is our understanding that the GAO is currently reviewing the work of these three grant entities to determine whether duplication, overlap, and inefficiencies exist. We look forward to the results of this review and believe it will further enhance our call to consolidate these three grant awarding agencies into one.

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[10] *See* 21st Century Department of Justice Appropriations Authorization Act of 2002, Pub. L. No. 107–243, 116 Stat. 1758 (Nov. 2, 2002).

[11] *See,* Protecting Those Who Protect Us: The Bulletproof Vest Partnership Grant Program: Hearing Before the Senate Comm. on the Judiciary, 112th Cong. (Feb. 15, 2012) (statement of David Maurer, Director, Homeland Security and Justice Team, U.S. Government Accountability Office).

IMMIGRATION ISSUES

We also have concerns about some of the immigration provisions included in the Chairman's substitute. VAWA is meant to protect victims of violence and should not be transformed into a vehicle for expanding immigration laws.

While we must do everything in our power to help victims of abuse and domestic violence, we cannot allow laws intended to prevent such abuse to be manipulated as a pathway to U.S. citizenship for foreign con artists and criminals.

Despite the evidence received by the Committee, the Chairman's bill did nothing to fight fraud and abuse in the VAWA self-petitioning program or in the "U" visa process. At the hearing on July 13, 2011, the Committee heard the powerful testimony of Julie Poner.[12] She described her personal experience as a victim of immigration marriage fraud and with the fraudulent use of VAWA self-petitions.[13]

The Committee also received written statements from more than 20 individuals who maintained that they were victims of marriage fraud or falsely accused as part of VAWA self-petitions.[14] These witnesses told of their first-hand experiences and how foreign nationals prey on U.S. citizens simply to get a green card. After the wedding ceremony, the foreign nationals lodged false allegations, sometimes of physical abuse, in order to get out of the marriage, collect alimony, and secure a green card. Witnesses have said that their side of the story was never heard, because under the process used by the United States Citizenship and Immigration Services (USCIS), the citizen's side of the story is not considered. The USCIS handles all of these green card applications in one remote service center that relies exclusively on the paper work, without interviewing either the allegedly abused foreign national or the accused citizen.

The Committee also received written testimony from John Sampson, who had 27 years of experience as a senior deportation officer with the U.S. Immigration and Customs Enforcement (ICE) and its predecessor agency.[15] He described immigration fraud as being at an "epidemic" level.[16] Michael Cutler, who had 30 years of experience with the Immigration and Naturalization Service (INS), submitted similar written testimony.[17]

We were encouraged at the hearing when the Chairman acknowledged the impact of Ms. Poner's testimony and instructed his staff to speak with her.[18] Consequently, we hoped that immigration fraud would be addressed in the bill introduced by the majority. However, the bill introduced by the Chairman did not include a single provision that addressed immigration fraud in VAWA self-petitions or in other visas.

Senator Grassley's amendment would address the issue of fraud. First it would have improved the process for VAWA self-petitions,

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[12] The Violence Against Women Act: Building on 17 Years of Accomplishments, *supra* note 1.
[13] *Id.* at 12–14, 234–38.
[14] *Id.* at 58–66, 107–10, 263–65, 290–91, 307–29.
[15] *Id.* at 239–58.
[16] *Id.* at 239.
[17] *Id.* at 92–101.
[18] *Id.* at 16.

requiring an in-person interview of the applicant. Currently, these petitions are adjudicated exclusively on the paper work. Also, as part of the adjudication, the investigative officer would have determined whether any law enforcement agency had undertaken an investigation or prosecution of the abusive conduct alleged by the petitioning alien. If a criminal proceeding found the citizen not guilty of the charges, the VAWA application would have been denied. Finally, if an investigative officer made a written finding that the petitioning alien made a material misrepresentation, it would be grounds for deportation.

The Grassley substitute would also strengthen the requirements for a "U" visa. This change was needed in light of the efforts to effectively eliminate the role of law enforcement agencies in the "U" visa process and to eliminate the requirement that an alien actually help with an investigation before receiving a "U" visa. Under current law, the requirements for receiving a "U" visa are generous.[19] There is no requirement that an investigation be commenced as a result of the alien reporting the crime. There is no time period within which an alien has to report the crime. The crime could have occurred years before it is reported and there could be no way to identify the perpetrator. Moreover, the alien seeking the "U" visa could even have a criminal record of their own.

In addition to confirming that the alien has been helpful with an investigation, each law enforcement certification would have had to confirm that:

(1) the alien reported the criminal activity to a law enforcement agency within 60 days of its occurrence;

(2) the statute of limitations for prosecuting an offense based on the criminal activity has not lapsed;

(3) the criminal activity is actively under investigation or a prosecution has been commenced;

(4) the alien has information that will assist in identifying the perpetrator of the criminal activity and/or the perpetrator's identity is known; and

(5) the alien has provided a copy of written documentation, signed by a licensed medical doctor, verifying that he or she suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity.

With these changes,"U" visas would have become a true law enforcement tool. The additional requirements would have ensured that the help given is real and significantly advances an actual investigation or prosecution.

The final immigration related section in Senator Grassley's amendment would require a report by the Government Accountability Office (GAO) to assess the efficiency and reliability of the process for reviewing applications for "U" visas and self-petitions under VAWA, including whether the process includes adequate safeguards against fraud and abuse, and to identify possible improvements in order to reduce fraud and abuse.

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[19] *See* U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement, 8–14 (available at www.dhs.gov/files/resources/u-visa-law-enforcement-guide.shtm).

We hope the majority will realize the need for reform in this area, and work to incorporate strong anti-fraud provisions to ensure that true victims of abuse and violence are protected.

DRIVING UNDER THE INFLUENCE AS AN "AGGRAVATED FELONY"

We support the inclusion of Senator Grassley's amendment that would add habitual drunk driving to the list of aggravated felonies for which an alien may be deported.

Individuals who drink and drive risk injuring, maiming, or killing innocent people. Under the Immigration and Nationality Act, foreign nationals are required to be of "good moral character" before they may adjust status or become citizens of the United States. Yet, despite this standard, these benefits can be obtained by aliens who are convicted of drunk driving offenses. Aliens cannot be deported for committing this crime, even if they do so on multiple occasions.

On numerous occasions, undocumented individuals have taken innocent lives because they were driving under the influence of alcohol. In 2011, an undocumented alien in Cook County, Illinois, killed a man in a drunk driving accident. Unfortunately, he was released by the county and absconded. An illegal immigrant who was driving under the influence of alcohol killed a Catholic nun in Prince William County, Virginia, in 2010. He was a repeat offender, and never should have been allowed to remain in the country.

Many other cases exist. Unfortunately, the law allows this to continue without repercussions for foreign nationals who are on the path to citizenship. These offenses should be classified as an aggravated felony.

The Grassley amendment was accepted by the Senate Judiciary Committee by unanimous consent in 2006. The language from 2006 was identical to language Senator Grassley offered during this year's markup of the VAWA reauthorization this year. Both versions contained language to include previous convictions as well as convictions entered on or after the date of enactment. During this year's markup, the Chairman moved to strike the language regarding previous convictions, which we opposed. Residing in the United States is a privilege, not a right. The Congress has every prerogative to dictate which behavior is acceptable, especially for non-citizens who should be of "good moral character." Therefore, we favor making previous drunk driving offenses applicable under the amendment accepted by the Committee.

The Committee's reported version of VAWA reauthorization will not become law. Successful reauthorization will require that our significant objections to the reported bill be alleviated. So far, there has been an unwillingness to take our position into account. For the sake of the victims of domestic violence in this country, we urge the majority to work with us to develop another truly bipartisan VAWA bill that can pass both houses and be signed into law.

CHARLES E. GRASSLEY.
ORRIN G. HATCH.
JON KYL.
JOHN CORNYN.

MINORITY VIEWS FROM SENATORS KYL, HATCH, SESSIONS AND COBURN

We write separately to explain our objection to a provision of this bill that would, for the first time ever, give Indian tribal governments criminal jurisdiction over non-Indian individuals. We also object to a provision that would appear to allow an Indian tribe to expel a non-Indian from his own land, even if privately held in fee simple, if that land is within the outer boundaries of an Indian reservation.

Tribes are racially defined institutions—all American Indian tribes require that their members have some tribal ancestry, and most require a specific quantum of Indian blood. Thus, even if a non-Indian has lived his entire life within the outer limits of an Indian reservation, because of his race and ancestry, he will be excluded from membership in the tribe and have no vote in tribal government elections.

Because of their racially-defined nature, while tribal governments have jurisdiction over tribal members, it has long been understood that they have no criminal jurisdiction over non-Indians.[1] The present bill's § 904 would reverse this law and give Indian tribes the power to prosecute, convict, and imprison non-Indians. While the present bill's jurisdiction is limited to domestic-violence offenses, once such an extension of jurisdiction were established, there would be no principled reason not to extend it to other offenses as well.

A non-Indian subject to tribal jurisdiction would enjoy few meaningful civil-rights protections. This is largely a result of the tribes' unique nature. American Indian tribes are regarded as deriving their powers from a "source of sovereignty [that is] . . . foreign to the constitutional institutions of the federal and state governments."[2] The tribes' powers are not delegated or created by the federal government—rather, they are "inherent powers of a limited sovereignty which has never been extinguished."[3] One practical consequence of the reservation tribes' nature is that "[a]s separate sovereigns pre-existing the Constitution, tribes have historically been regarded as unconstrained by those constitutional provisions framed specifically as limitations on federal or state authority."[4] Courts have held, for example, that tribal governments are not bound by the Constitution's First, Fifth, or Fourteenth Amendments.[5]

Congress applied parts (but not all) of the Bill of Rights to the tribes by statute in the Indian Civil Rights Act of 1968. However,

[1] *See Oliphant* v. *Suquamish Indian Tribe*, 435 U.S. 191 (1978).
[2] *Santa Clara Pueblo* v. *Martinez*, 436 U.S. 49, 71 (1978).
[3] *United States* v. *Wheeler*, 435 U.S. 313, 322 (1978).
[4] *Santa Clara Pueblo*, 436 U.S. at 56.
[5] *See id.* at 56 n.7.

in the Santa Clara Pueblo case, the Supreme Court concluded that ICRA did not authorize a cause of action to enforce its guarantees (although prolonged detention can still be challenged via habeas corpus). Thus, even those constitutional rights that were applied to tribal governments through ICRA can only be enforced in tribal court.

Even aside from their racially-exclusive nature, the absence of separation of powers and an independent judiciary in most tribal governments makes them an unsuitable vehicle for ensuring the protection of civil rights. As one Indian newspaper publisher has noted:

> In most tribal constitutions there is no separation of powers. All power, legislative, executive and judicial, is concentrated in or controlled by the tribal council. . . . Because tribal government all too often controls the tribal courts, directly or through the power of appropriations, there is no oversight and control of tribal councils.[6]

Tribal governments also enjoy nearly complete immunity from suit (even with respect to events that occur off the reservation).[7] Tribal officials have successfully asserted sovereign immunity to avoid legal accountability for torts committed by tribal employees off the reservation,[8] for sexual harassment of employees at tribal businesses,[9] for violating workers compensation agreements, for fraud at Indian businesses, and for breaking contracts signed by the tribe.[10]

A state Judge testifying before the Senate Indian Affairs Committee described the impact that this combination of immunities has on the protection of civil rights under tribal jurisdiction:

> [On reservations, there are] no guarantees that civil rights acts, Federal or State legislation against age discrimination, gender discrimination, or sexual discrimination will be honored . . . no guarantees of OSHA, no guarantees of the Americans with Disabilities Act, no guarantees of the right to unionize, nor the right to teacher tenure laws, no right to the benefit of Federal and State whis-

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[6] William J. Lawrence (publisher, Native American Press/Ojibwe News and member, Red Lake Band of Chippewa), Do Indian Reservations Equal Apartheid?, Ojibwe News (June 6, 2003), *available at* http://www.perm.org/articles/a196.html; *see also* Jan Golab, Arnold Schwarzenenegger Girds For Indian War 40, American Enterprise (Jan./Feb. 2004).

> Tribal members are victims as well—they have no legal recourse against their own leaders or governments. . . . They don't have a free press, or secret ballot, or freedom of speech. Those who speak out often lose their jobs or homes, and can be physically ejected from the reservation. Tribal judges are not independent; they work for the tribal government.

Id.

[7] *See Kiowa Tribe of Oklahoma* v. *Manufacturing Technologies, Inc.,* 523 U.S. 751 (1998).

[8] Jan Golab, Arnold Schwarzenenegger Girds For Indian War 40, American Enterprise (Jan./Feb. 2004).

[9] Bob Eighmie, Tribes use sovereignty to skirt legal judgments: U.S. courts have no jurisdiction over actions of Indian tribes, http://www.citizensalliance.org/Major%20Issues/Sovereignty%20and%20Accountabilty%20Issues/Sovereign%20immunity%20Issues.htm (Feb. 11, 2002).

[10] Jim Marino, Indian Casino Gambling in California After Passage of Proposition 1A, Santa Ynez Valley Journal (May 6, 2010), *available at* http://www.syvjournal.com/archive/8/18/6351/; Bob Eighmie, Tribes use sovereignty to skirt legal judgments: U.S. courts have no jurisdiction over actions of Indian tribes, http://www.citizensalliance.org/Major%20Issues/Sovereignty%20and%20Accountabilty%20Issues/Sovereign%20immunity%20Issues.htm (Feb. 11, 2002).

> tleblower statutes, . . . no freedom of the press and no freedom of speech.[11]

This lack of civil-rights guarantees and avenues for their meaningful enforcement has resulted in tribal criminal-justice systems that fail to provide due process. For example, the Red Lake tribe of Minnesota has had an ordinance that provided that "the judge in a criminal case may render a verdict contrary to that reached by the jury."[12] A case has been reported on the reservation in which the jury voted 5–1 to acquit the defendant—but the tribal judge, citing the ordinance, nevertheless convicted the defendant and sentenced him to substantial jail time.[13] Other tribes refuse to provide counsel to indigent defendants[14]—and even prevent defendants from employing counsel at their own expense.[15]

Lest the prospect of such abuses being committed against non-Indians residing within reservation boundaries fail to move the committee majority, allow us to cite an example of the practical effect of § 904 that should prick the conscience of every member of the committee:

In addition to the aforementioned legal immunities and sovereign immunity, tribes are traditionally regarded as having inherent authority to determine who is a tribal member.[16] In the 1980s and 1990s, the Seminole and Cherokee tribes of Oklahoma, for various financial and political reasons, decided to use this power in order to expel all of their African-American members.[17] In some cases, the expelled individuals' black ancestors had been members of the tribe for centuries. Although the racial discrimination in these actions was obvious (tribal members with white blood were not expelled), the expelled African-American members were unable to obtain any relief. Federal courts held that the tribes are not bound by antidiscrimination laws and are, in any, event immune from suit, and the black members' lawsuits were dismissed.[18]

Such mass tribal expulsions are not uncommon. Tribes have expelled large numbers of their members when they have begun to receive substantial revenues from casino gambling (fewer members

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[11] Sovereign Immunity: Hearing Before the Senate Comm. On Indian Affairs, 105th Cong., 2d Sess. (Mar. 11, 1998), at 24 (Statement of R.A. Randall, Judge, Minnesota State Court of Appeals); *see also* Becky Johnson, Some Native American editors lose jobs after clashing with tribal officials, Smoky Mountain News (Sept. 8, 2004), available at http://www.smokymountainnews.com/issues/09_04/09_08_04/fr_editors_lose_jobs.html.

[12] *Granite Valley Hotel Ltd. P'ship* v. *Jackpot Junction Bingo & Casino,* 559 N.W.2d 135, 145 (Minn. Ct. App. 1997) (Randall, J. concurring).

[13] *Id.*

[14] *See Tom* v. *Sutton*, 533 F.2d 1101, 1106 (9th Cir. 1976) ("The Lummi Tribal Court has interpreted Article VIII of the Lummi Tribal Constitution as permitting a person to have the assistance of counsel only at his own expense. We accept and agree with that construction.").

[15] *See Granite Valley Hotel Ltd. P'ship* v. *Jackpot Junction Bingo & Casino,* 559 N.W.2d 135, 146 (Minn. Ct. App. 1997) (Randall, J. concurring) (noting that some tribes in Minnesota "have prevented litigants in tribal court from bringing in the attorney of their own choosing . . . [and some] do not let you bring in your own attorney on family law matters.").

[16] *See* Cohen's Handbook of Federal Indian Law, 2005 edition, § 4.01[2][b].

[17] *See* generally *Davis* v. *United States*, 199 F. Supp. 2d 1164, 1167–71 (W.D. Okla. 2002) aff'd sub nom. Davis ex rel. Davis v. United States, 343 F.3d 1282 (10th Cir. 2003); Andrew Metz, A Nation Divided: Seminole rift more than a black-and-white issue, Newsday (Dec. 22, 2003), available at http://www.newsday.com/news/a-nation-divided-seminole-rift-more-than-a-black-and-white-issue-1.250433; Brent Staples, Editorial, Editorial Observer; When Racial Discrimination Is Not Just Black and White, New York Times (Sept. 12, 2003), available at http://www.nytimes.com/2003/09/12/opinion/editorial-observer-when-racial-discrimination-is-not-just-black-and-white.html

[18] *See Nero* v. *Cherokee Nation of Oklahoma*, 892 F.2d 1457 (10th Cir. 1989); *Davis* v. *United States*, 343 F.3d 1282 (2003) (Seminole Nation).

means a larger slice of the pie for each remaining member),[19] or in order to quell or punish political dissent.[20]

The present bill does nothing to correct the injustices that were committed against the black Seminoles and Cherokees. It does not authorize them to bring suit in federal court for application of anti-discrimination laws, or even bar the federal government from distributing benefits to tribal members on the basis of such discrimination. What this bill does offer the black Seminoles and Cherokees (and other expelled members) is the opportunity to be prosecuted, convicted, and imprisoned by tribal officials (perhaps the same tribal officials who expelled them) if they continue to live on or near tribal lands.

One final provision of this bill deserves comment. Section 905 would amend § 2265 of title 18 to authorize tribal authorities to "exclude" non-Indians "from Indian land . . . in matters arising anywhere in the Indian country of the tribe (as defined in section 1151)." The word "Indian land" is not defined in title 18. To the extent that it means the same things as "Indian country" under § 1151, however, this provision would allow Indian tribes to bar non-Indians from residing on their own property, privately held in fee simple, when that property is within the outer boundaries of an Indian reservation.[21]

Section 1151 defines "Indian country" for purposes of defining the geographic scope of federal criminal jurisdiction in cases involving Indians. "Indian country" includes, in relevant part, "all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation." This definition has long been understood to apply to land that is privately owned by non-Indians within the limits of an Indian reservation.[22] In other words, § 905 of this bill would literally allow a tribe to exclude a non-Indian from his own privately-held land.[23]

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[19] Marc Cooper, Tribal Flush: Pechanga People "Disenrolled" en Masse: On the eve of what could be the largest gambling expansion in U.S. history, a tale of power, betrayal and lost Indian heritage, LA Weekly (Jan. 3, 2008), *available at* http://www.laweekly.com/2008-01-03/news/tribal-flush-pechanga-people-disenrolled-en-masse/; James Dao, In California, Indian Tribes With Casino Cast Off Members, New York Times (Dec. 12, 2011), *available at* http://www.nytimes.com/2011/12/13/us/california-indian-tribes-eject-thousands-of-members.html?pagewanted=all.

[20] James May, Disenrolled tribal members recall tribal council, Indian County Today Media Network (Feb. 2, 2005), *available at* http://indiancountrytodaymedianetwork.com/ictarchives/2005/02/02/disenrolled-tribal-members-recall-tribal-council–94454 ("Perhaps not coincidentally, the same 70 people who signed the recall petition [against the tribal council] were then informed that they were subject to disenrollment.").

[21] Because of the Allotment Act of 1887 and similar subsequent legislation, a substantial amount of land within the exterior boundaries of Indian reservations is owned in fee simple by non-Indians. *See Atkinson Trading Co., Inc.* v. *Shirley*, 532 U.S. 645, 651 n.1 (2001) ("[N]early 90 million acres of non-Indian fee land had been acquired as part of the Indian General Allotment Act."); *see, e.g., Montana* v. *U.S.*, 450 U.S. 544, 548 (1981) ("[A]pproximately 28 percent [of the Crow Reservation in Montana] is held in fee by non-Indians.")

[22] *See Seymour* v. *Superintendent*, 368 U.S. 351, 357–58 (1962). The apparent purpose of extending federal criminal jurisdiction over all lands within the outer limits of the reservation, regardless of ownership, was to avoid creating "an impractical pattern of checkerboard jurisdiction." *Id.* at 358.

[23] According to the latest census data, a substantial number of non-Indians live within reservation boundaries. *See* U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, *The American Indian and Alaskan Native Population: 2010* 12–14 (Jan. 2012), *available at* http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf.

If this committee and the Indian Affairs committee[24] are serious about this issue—if this is more than just an election-year ploy to paint opponents of the bill as "anti-Indian"—then we would propose an obvious solution to the problem of gaps in criminal jurisdiction over non-Indians on reservations: in cases where the United States declines to prosecute an offense committed on a reservation by a non-Indian, state authorities should be allowed to do so, regardless of the race of the victim.[25]

State authorities are accountable to Indians and non-Indians alike, and are subject to effective and enforceable civil rights protections. And most states already provide substantial welfare, education, and health-care services on Indian reservations—the notion of sovereign "tribal territory" that is immune from the reach of state law is more legal fiction than governmental reality. There is no good reason not to give states and their local governments jurisdiction to prosecute offenses committed by non-Indians within Indian reservations.

JON KYL.
ORRIN G. HATCH.
JEFF SESSIONS.
TOM COBURN.

[24] Provisions identical to §§ 904 and 905 of this bill appear in S. 1763, the Save Native Women Act, which has been reported by the Indian Affairs Committee.

[25] States have long been recognized as having criminal jurisdiction over offenses occurring on an Indian reservation when both the perpetrator and the victim are non-Indian. *See Draper* v. *United States*, 164 U.S. 240 (1896).

MINORITY VIEWS FROM SENATORS COBURN AND LEE

We write these views to explain our vote opposing S. 1925, Violence Against Women Reauthorization Act (VAWA), as amended by Senator Leahy's committee substitute, and Senator Coburn's vote opposing Senator Grassley's substitute considered at the Senate Judiciary Committee's February markup. We have several outstanding concerns with this legislation, some of which were reflected in the amendments Senator Coburn circulated for the February markup. In particular, we believe this legislation violates the principles of federalism outlined in the Constitution, fails to completely address duplication and overlap both within VAWA programs and with non-VAWA programs administered by both the Department of Justice (DOJ) and the Department of Health and Human Services (HHS), ignores the continuing problem of grant management and waste, fraud and abuse at the Office of Violence Against Women (OVW), and disregards our country's fragile financial condition, which has worsened significantly since the last VAWA reauthorization in 2005.

First and foremost, we do not think anyone would disagree with the fact that violence of any type against women, domestic, dating or sexual violence, is reprehensible and should not be tolerated. However, regardless of the extent of this or any other problem, we must carefully weigh the proper role of the federal government so Congress does not violate its limited authority under the Constitution. Domestic violence laws, like most other criminal laws, are state laws, and nowhere in the Constitution is the federal government tasked with providing basic funding to states, localities, and private organizations to operate programs aimed at victims of state crimes such as domestic violence. Far too often, Congress infringes upon the rights of the people and the states by overreaching in its legislative efforts.

Although many VAWA programs are laudable, they are not the federal government's responsibility. In fact, the entire purpose of this legislation is to provide funding for state, local, non-profit, and victim services grantees to serve victims of state crimes, such as domestic violence, stalking, and sexual violence. These crimes and the treatment of its victims are appropriately in the jurisdiction of the states, not the federal government. In light of our current economic crisis, Congress must evaluate each and every program to determine: (1) if it is Constitutional; (2) whether it is a federal responsibility; and (3) whether it is a priority. Combating violence against women is certainly a priority, but it is not a federal responsibility.

Second, this legislation fails to completely address the duplication and overlap within VAWA programs and with non-VAWA programs operated by both the DOJ and HHS. At the beginning of every Congress, Senator Coburn sends to each senator his letter

outlining the criteria he will use to evaluate legislation. This Congress, it was also signed by seven other members. The VAWA reauthorization violates several of those criteria, including elimination and consolidation of duplicative programs prior to reauthorization.

While we recognize the legislation does consolidate some programs, it has not eliminated all duplication. There are several VAWA grant programs that are so broad that they duplicate one another, providing multiple opportunities for grantees to double dip into federal funds. In addition, the Family Violence Prevention and Services Act (FVPSA), which pre-dates the original VAWA legislation, authorized several HHS programs aimed at reducing domestic violence and helping victims. Several of those programs fund the same types of services as those authorized by the VAWA grants in this legislation. As a nation, we simply cannot afford to reauthorize programs that waste taxpayer dollars by duplicating programs operated by other federal agencies for the same purposes. To be clear, addressing duplication and overlap is not a matter of refusing to provide services to victims of domestic violence, but rather it is to ensure they are properly served by programs that are efficient, effective and not bogged down in federal government bureaucracy.

Third, both the Government Accountability Office (GAO) and the DOJ Office of the Inspector General (DOJ OIG) have repeatedly documented the failure of OVW to manage its grants and monitor its grantees effectively. Overall, DOJ has long had problems with its grant management. The DOJ OIG has published for more than a decade a list of the Top 10 Management Challenges at the DOJ. Grant management, unfortunately, has appeared on that list ever since the inception of this evaluation, with OVW being called out as particularly problematic.

Since 2001, GAO has noted various problems at OVW and with particular VAWA grants. With regard to OVW grant management, GAO noted grants awarded by OVW "often lacked the documentation necessary to ensure that the required monitoring activities occurred."[1] As a result OVW "was not positioned to systematically determine staff compliance with monitoring requirements and assess overall performance."[2]

Even our constituents have directly experienced OVW mismanagement. For example, the Oklahoma District Attorneys Council, which is the Oklahoma state administrative agency for many federal grants, has had specific, documented problems with the poor job OVW has been doing in its grant management and oversight. OVW does not answer or return phone calls in a timely manner and has consistently been unavailable to answer grantees' questions in the middle of the work week. Moreover, in the last 4 years that Oklahoma has received one particular VAWA grant, OVW has failed to perform even one site visit to check on the implementation of the grant and the grantee's use of federal funds.

After more than a decade of significant challenges, it is our hope the DOJ OIG will be able to remove grant management from DOJ's Top 10 management challenges. However, until that occurs, it is

[1] Statement of Laurie E. Ekstrand, Director, Justice Issues, United States General Accounting Office, before the Committee on the Judiciary, Subcommittee on Crime and Drugs, United States Senate, April 16, 2002, at 2.

[2] *Id.* at 2–3.

the job of this committee to ensure we are not turning a blind eye to DOJ's failure to properly administer taxpayer funds through federal grant programs, including those authorized by VAWA.

Fourth, the fiscal condition of our country has worsened dramatically since the original passage of this bill in 1994 and the last reauthorization in 2005. In fact, at the end of 2005, our national debt was approximately $8.1 trillion.[3] It is now over $15.4 trillion—a growth of over $7.3 trillion in just over 6 years.[4] The federal government is in no position to spend more money on any grant programs without offsets. We simply cannot afford it.

Although Chairman Leahy recognized the inordinately high authorization levels in the last VAWA reauthorization by reducing some of those amounts, the bill continues to inflate the actual funding we know Congress will provide to VAWA grantees. The adopted substitute authorizes approximately $659 million in grants each year for 5 years, totaling $3.3 billion. None of these funds are offset. The 2005 VAWA reauthorization provided approximately $779 million per year for 5 years, totaling $3.89 billion. Thus, while S. 1925 reauthorizes a total of $590 million *less* than the 2005 VAWA reauthorization, this total is still much higher than actual past appropriations.

In fact, from 2007–2011, Congress appropriated a total of $2.71 billion for VAWA grant programs, which is $590 million *less* than this bill's authorized funding. From 2007–2011, although Congress authorized a total of $3.89 billion, it actually appropriated $1.18 billion *less* than that figure ($2.71 billion). Thus, while S. 1925 may reduce authorizations, it still provides a total authorization that is significantly higher than total VAWA appropriations over the past 5 years. If we know, based on past funding history, that it is highly unlikely Congress will ever provide to VAWA grantees the level of funding authorized in this legislation, why would we send a false message to grantees by retaining such inflated estimates in VAWA?

Fifth, we also have concerns about a section of this bill that allows a tribal court to have jurisdiction over *non*-Indians who commit a domestic violence crime in Indian country or against an Indian. The language explicitly provides that the self-governance of a tribe includes the right "to exercise special domestic violence criminal jurisdiction over all persons." To our knowledge, this is the first time the federal government has given Indian Courts jurisdiction over "all persons." While we recognize domestic violence is a serious problem in Indian country, this change could cause particular problems with tribes in Oklahoma. Oklahoma has no reservations, but it does have 39 separate Indian governments. The individual allotment lands and trust lands are small and dispersed within Oklahoma communities and counties. The tribes do not have large continuous land bases, and because of its unique history, many Oklahomans claim Indian enrollment, but have no relationship to the tribe or a tribal community.

Further, the Bill of Rights does not apply in Indian courts. Instead, most of the protections are preserved because of the Indian

[3] Treasury Direct, *available at* http://www.savingsbonds.gov/NP/NPGateway, *accessed* February 28, 2012.
[4] *Id.*

Civil Rights Act, but it does not preserve all rights. For example, the Indian Civil Rights Act only guarantees right to counsel at an individual's own expense. If the "all persons" language is as absolute as it appears, it could allow a non-Indian to be tried in tribal court without the full protection of the Constitution. S. 1925 includes language that says: "In a criminal proceeding in which a participating tribe exercises special domestic violence criminal jurisdiction, the participating tribe shall provide to the defendant . . . all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise special domestic violence criminal jurisdiction over the defendant." Still, we are not certain this is enough and are afraid it will be subject to future court challenges.

Proponents of this provision argue that such allowances to tribal courts are necessary because no one is prosecuting non-Indian offenders, and that may be true in some cases. But, instead of creating a conflict between Indian country and the federal government's jurisdiction over American citizens who commit specific crimes, we believe we should deal with the bigger problem by holding the Department of Justice and local U.S. Attorneys accountable for not prosecuting these cases.

Finally, while we applaud and support Senator Grassley's effort to further reduce authorizations to more appropriately reflect past appropriations, to increase accountability at the DOJ, and to address problematic definitions, immigration provisions and criminal statutes in his committee substitute amendment, for many of the same reasons we outlined above, we also have grave concerns with his substitute. Although his legislation is likely a better alternative than S. 1925, it still runs counter to our basic constitutional concerns with VAWA programs. Thus, we did not sign on to his minority views, but rather submitted our own.

As a result, we cannot support S. 1925, as reported by the Senate Judiciary Committee, or give full support to Senator Grassley's substitute as circulated for committee consideration.

TOM COBURN.
MIKE LEE.

VIII. Changes to Existing Law Made by the Bill, as Reported

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1925, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 8—ALIENS AND NATIONALITY

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CHAPTER 12—IMMIGRATION AND NATIONALITY

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Subchapter I—General Provisions

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SEC. 1101. DEFINITIONS.

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(a)(15)(U)(i) subject to section 1184(p) of this title, an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that—

(I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);

(II) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning criminal activity described in clause (iii);

(III) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and

(IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

(ii) if accompanying, or following to join, the alien described in clause (i)—

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and

(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; *stalking;* female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes; or

* * * * * * *

(a)(43)(F) a crime of violence (as defined in section 16 of Title 18, but not including a purely political offense) **[**for which the term of imprisonment**]**, *including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State or Federal law, for which the term of imprisonment is* at least one year;

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Subchapter II—Immigration

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PART I—SELECTION SYSTEM

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SEC. 1154. PROCEDURE FOR GRANTING IMMIGRANT STATUS.

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(l) SURVIVING RELATIVE CONSIDERATION FOR CERTAIN PETITIONS AND APPLICATIONS.—

(1) IN GENERAL.—An alien described in paragraph (2) who resided in the United States at the time of the death of the qualifying relative and who continues to reside in the United States shall have such petition described in paragraph (2), or an application for adjustment of status to that of a person admitted for lawful permanent residence based upon the family relationship described in paragraph (2), and any related applications, adjudicated notwithstanding the death of the qualifying relative, unless the Secretary of Homeland Security determines, in the unreviewable discretion of the Secretary, that approval would not be in the public interest.

(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who, immediately prior to the death of his or her qualifying relative, was—

(A) the beneficiary of a pending or approved petition for classification as an immediate relative (as described in section 1151(b)(2)(A)(i) of this title);

(B) the beneficiary of a pending or approved petition for classification under section 1153(a) or (d) of this title;

(C) a derivative beneficiary of a pending or approved petition for classification under section 1153(b) of this title (as described in section 1153(d) of this title);

(D) the beneficiary of a pending or approved refugee/asylee relative petition under section 1157 or 1158 of this title;

(E) an alien admitted in "T" nonimmigrant status as described in section 1101(a)(15)(T)(ii) of this title or in "U" nonimmigrant status as described in section 1101(a)(15)(U)(ii) of this title; **[**or**]**

(F) a child of an alien who filed a pending or approved petition for classification or application for adjustment of status or other benefit specified in section 101(a)(51) as a VAWA self-petitioner; or

[(F)**]** *(G)* an asylee (as described in section 1158(b)(3) of this title).

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PART II—ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

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SEC. 1182. INADMISSIBLE ALIENS.

* * * * * * *

(a)(4) PUBLIC CHARGE.—

(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.

(B) FACTORS TO BE TAKEN INTO ACCOUNT.—

(i) In determining whether an alien is inadmissible under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

(I) age;

(II) health;

(III) family status;

(IV) assets, resources, and financial status; and

(V) education and skills.

(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 1183a of this title for purposes of exclusion under this paragraph.

(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 1151(b)(2) or 1153(a) of this title is inadmissible under this paragraph unless—

(i) the alien has obtained—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 1154(a)(1)(A) of this title;

(II) classification pursuant to clause (ii) or (iii) of section 1154(a)(1)(B) of this title; or

(III) classification or status as a VAWA self-petitioner; or

(ii) the person petitioning for the alien's admission (and any additional sponsor required under section 1183a(f) of this title or any alternative sponsor permitted under paragraph (5)(B) of such section) has executed an affidavit of support described in section 1183a of this title with respect to such alien.

(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 1153(b) of this title by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible under this paragraph unless such relative has executed an affidavit of support described in section 1183a of this title with respect to such alien.

(E) SPECIAL RULE FOR QUALIFIED ALIEN VICTIMS.—Subparagraphs (A), (B), and (C) shall not apply to an alien who—

(i) is a VAWA self-petitioner;

(ii) is an applicant for, or is granted, nonimmigrant status under section 101(a)(15)(U); or

(iii) is a qualified alien described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)).

* * * * * * *

SEC. 1184. ADMISSION OF NONIMMIGRANTS.

* * * * * * *

(d) ISSUANCE OF VISA TO FIANCÉE OR FIANCÉ OF CITIZEN.—

(1) A visa shall not be issued under the provisions of section 1101(a)(15)(K)(i) of this title until the consular officer has received a petition filed in the United States by the fiancée or fiancé of the applying alien and approved by the Secretary of Homeland Security. The petition shall be in such form and contain such information as the Secretary of Homeland Security shall, by regulation, prescribe. Such information shall include information on any criminal convictions of the petitioner for any specified [crime.] *crime described in paragraph (3)(B) and information on any permanent protection or restraining order issued against the petitioner related to any specified crime described in paragraph (3)(B)(i).* It shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Secretary of Homeland Security in his discretion may waive the requirement that the parties have previously met in person. In the

event the marriage with the petitioner does not occur within three months after the admission of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be removed in accordance with sections 1229a and 1231 of this title.

(2)(A) Subject to subparagraphs (B) and (C), [a consular officer] *the Secretary of Homeland Security* may not approve a petition under paragraph (1) unless [the officer] *the Secretary* has verified that—

(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and

(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

(B) The Secretary of Homeland Security may, in the Secretary's discretion, waive the limitations in subparagraph (A) if justification exists for such a waiver. Except in extraordinary circumstances and subject to subparagraph (C), such a waiver shall not be granted if the petitioner has a record of violent criminal offenses against a person or persons.

(C)(i) The Secretary of Homeland Security is not limited by the criminal court record and shall grant a waiver of the condition described in the second sentence of subparagraph (B) in the case of a petitioner described in clause (ii).

(ii) A petitioner described in this clause is a petitioner who has been battered or subjected to extreme cruelty and who is or was not the primary perpetrator of violence in the relationship upon a determination that—

(I) the petitioner was acting in self-defense;

(II) the petitioner was found to have violated a protection order intended to protect the petitioner; or

(III) the petitioner committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result in serious bodily injury and where there was a connection between the crime and the petitioner's having been battered or subjected to extreme cruelty.

(iii) In acting on applications under this subparagraph, the Secretary of Homeland Security shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary.

(3) In this subsection:

(A) The terms "domestic violence", "sexual assault", "child abuse and neglect", "dating violence", "elder abuse", and "stalking" have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

(B) The term "specified crime" means the following:

(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder [abuse, and stalking.] *abuse, stalking, or an attempt to commit any such crime.*

(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.

* * * * * * *

(p) REQUIREMENTS APPLICABLE TO SECTION 1101(a)(15)(U) VISAS.—

(1) PETITIONING PROCEDURES FOR SECTION 1101(a)(15)(U) VISAS.—The petition filed by an alien under section 1101(a)(15)(U)(i) of this title shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 1101(a)(15)(U)(iii) of this title. This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution of criminal activity described in section 1101(a)(15)(U)(iii) of this title.

(2) NUMERICAL LIMITATIONS.—

(A) [The number] *Except as provided in subparagraph (C), the number* of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 1101(a)(15)(U) of this title in any fiscal year shall not exceed 10,000.

(B) The numerical limitations in subparagraph (A) shall only apply to principal aliens described in section 1101(a)(15)(U)(i) of this title, and not to spouses, children, or, in the case of alien children, the alien parents of such children.

(C) Beginning in fiscal year 2012, if the numerical limitation set forth in subparagraph (A) is reached before the end of the fiscal year, up to 5,000 additional visas, of the aggregate number of visas that were available and not issued to nonimmigrants described in section 101(a)(15)(U) in fiscal years 2006 through 2011, may be issued until the end of the fiscal year.

(3) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO "U" VISA NONIMMIGRANTS.—With respect to nonimmigrant aliens described in subsection (a)(15)(U) of section 1101 of this title—

(A) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to nongovernmental organizations to advise the aliens regarding their options while in the United States and the resources available to them; and

(B) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that

subsection, provide the aliens with employment authorization.

(4) CREDIBLE EVIDENCE CONSIDERED.—In acting on any petition filed under this subsection, the consular officer or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition.

(5) NONEXCLUSIVE RELIEF.—Nothing in this subsection limits the ability of aliens who qualify for status under section 1101(a)(15)(U) of this title to seek any other immigration benefit or status for which the alien may be eligible.

(6) DURATION OF STATUS.—The authorized period of status of an alien as a nonimmigrant under section 1101(a)(15)(U) of this title shall be for a period of not more than 4 years, but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(iii) of this title that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity. The Secretary of Homeland Security may extend, beyond the 4-year period authorized under this section, the authorized period of status of an alien as a nonimmigrant under section 1101(a)(15)(U) of this title if the Secretary determines that an extension of such period is warranted due to exceptional circumstances. Such alien's nonimmigrant status shall be extended beyond the 4-year period authorized under this section if the alien is eligible for relief under section 1255(m) of this title and is unable to obtain such relief because regulations have not been issued to implement such section and shall be extended during the pendency of an application for adjustment of status under section 1255(m) of this title. The Secretary may grant work authorization to any alien who has a pending, bona fide application for nonimmigrant status under section 1101(a)(15)(U) of this title.

(7) AGE DETERMINATIONS.—

(A) CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted status under section 101(a)(15)(U)(i), and who was under 21 years of age on the date on which such parent petitioned for such status, shall continue to be classified as a child for purposes of section 101(a)(15)(U)(ii), if the alien attains 21 years of age after such parent's petition was filed but while it was pending.

(B) PRINCIPAL ALIENS.—An alien described in clause (i) of section 101(a)(15)(U) shall continue to be treated as an alien described in clause (ii)(I) of such section if the alien attains 21 years of age after the alien's application for status under such clause (i) is filed but while it is pending.

* * * * * * *

(r) VISAS OF NONIMMIGRANTS DESCRIBED IN SECTION 1101(a)(15)(K)(ii).—

(1) A visa shall not be issued under the provisions of section 1101(a)(15)(K)(ii) of this title until the consular officer has received a petition filed in the United States by the spouse of the

applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. Such information shall include information on any criminal convictions of the petitioner for any specified [crime.] *crime described in paragraph (5)(B) and information on any permanent protection or restraining order issued against the petitioner related to any specified crime described in subsection (5)(B)(i).*

(2) In the case of an alien seeking admission under section 1101(a)(15)(K)(ii) of this title who concluded a marriage with a citizen of the United States outside the United States, the alien shall be considered inadmissible under section 1182(a)(7)(B) of this title if the alien is not at the time of application for admission in possession of a valid nonimmigrant visa issued by a consular officer in the foreign state in which the marriage was concluded.

(3) In the case of a nonimmigrant described in section 1101(a)(15)(K)(ii) of this title, and any child of such a nonimmigrant who was admitted as accompanying, or following to join, such a nonimmigrant, the period of authorized admission shall terminate 30 days after the date on which any of the following is denied:

(A) The petition filed under section 1154 of this title to accord the principal alien status under section 1151(b)(2)(A)(i) of this title.

(B) The principal alien's application for an immigrant visa pursuant to the approval of such petition.

(C) The principal alien's application for adjustment of status under section 1255 of this title pursuant to the approval of such petition.

(4)(A) The Secretary of Homeland Security shall create a database for the purpose of tracking multiple visa petitions filed for fiancé(e)s and spouses under clauses (i) and (ii) of section 1101(a)(15)(K) of this title. Upon approval of a second visa petition under section 1101(a)(15)(K) of this title for a fiancé(e) or spouse filed by the same United States citizen petitioner, the petitioner shall be notified by the Secretary that information concerning the petitioner has been entered into the multiple visa petition tracking database. All subsequent fiance(e) or spouse nonimmigrant visa petitions filed by that petitioner under such section shall be entered in the database.

(B)(i) Once a petitioner has had two fiance(e) or spousal petitions approved under clause (i) or (ii) of section 1101(a)(15)(K) of this title, if a subsequent petition is filed under such section less than 10 years after the date the first visa petition was filed under such section, the Secretary of Homeland Security shall notify both the petitioner and beneficiary of any such subsequent petition about the number of previously approved fiance(e) or spousal petitions listed in the database.

[(ii) A copy of the information and resources pamphlet on domestic violence developed under section 1375a(a) of this title shall be mailed to the beneficiary along with the notification required in clause (i).]

(ii) To notify the beneficiary as required by clause (i), the Secretary of Homeland Security shall provide such notice to the Secretary of State for inclusion in the mailing to the beneficiary described in section 833(a)(5)(A)(i) of the International Marriage Broker Regulation Act of 2005 (8 U.S.C. 1375a(a)(5)(A)(i)).

(5) In this subsection:

(A) The terms "domestic violence", "sexual assault", "child abuse and neglect", "dating violence", "elder abuse", and "stalking" have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

(B) The term "specified crime" means the following:

(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder [abuse, and stalking.] *abuse, stalking, or an attempt to commit any such crime.*

(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.

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SEC. 1186A. ADMISSION OF NONIMMIGRANTS.

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(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis established under subsection (a) of this section for an alien spouse or an alien son or daughter to be removed—

(A) the alien spouse and the petitioning spouse (if not deceased) jointly must submit to the Attorney General, during the period described in subsection (d)(2) of this section, a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1) of this section, and

(B) in accordance with subsection (d)(3) of this section, the alien spouse and the petitioning spouse (if not deceased) must appear for a personal interview before an officer or employee of the Department of Homeland Security respecting the facts and information described in subsection (d)(1) of this section.

(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a) of this section, if—

(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

(ii) unless there is good cause shown, the alien spouse and petitioning spouse fail to appear at the interview described in paragraph (1)(B),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

(B) HEARING IN REMOVAL PROCEEDING.—In any removal proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

(A) IN GENERAL.—If—

(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

(ii) the alien spouse and petitioning spouse appear at the interview described in paragraph (1)(B), the Attorney General shall make a determination, within 90 days of the date of the interview, as to whether the facts and information described in subsection (d)(1) of this section and alleged in the petition are true with respect to the qualifying marriage.

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the parties involved and shall remove the conditional basis of the parties effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the parties involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien spouse or an alien son or daughter as of the date of the determination.

(D) HEARING IN REMOVAL PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) of this section and alleged in the petition are not true with respect to the qualifying marriage.

(4) HARDSHIP WAIVER.—**[**The Attorney General, in the Attorney General's**]** *The Secretary of Homeland Security, in the Secretary's* discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) if the alien demonstrates that—

(A) extreme hardship would result if such alien is removed**[**,**]***;*

(B) the qualifying marriage was entered into in good faith by the alien spouse, but the qualifying marriage has been terminated (other than through the death of the spouse) and the alien was not at fault in failing to meet the requirements of paragraph [(1), or] *(1); or*

(C) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1)[.]*; or*

(D) the alien meets the requirements under section 204(a)(1)(A)(iii)(II)(aa)(BB) and following the marriage ceremony was battered by or subject to extreme cruelty perpetrated by the alien's intended spouse and was not at fault in failing to meet the requirements of paragraph (1).

In determining extreme hardship, the [Attorney General] *Secretary of Homeland Security* shall consider circumstances occurring only during the period that the alien was admitted for permanent residence on a conditional basis. In acting on applications under this paragraph, the [Attorney General] *Secretary* shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the [Attorney General.] *Secretary.* The [Attorney General] *Secretary* shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.

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PART IX—MISCELLANEOUS

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SEC. 1375a. DOMESTIC VIOLENCE INFORMATION AND RESOURCES FOR IMMIGRANTS AND REGULATION OF INTERNATIONAL MARRIAGE BROKERS.

(a) INFORMATION FOR K NONIMMIGRANTS ON LEGAL RIGHTS AND RESOURCES FOR IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE.—

(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop an information pamphlet, as described in paragraph (2), on legal rights and resources for immigrant victims of domestic violence and distribute and make such pamphlet available as described in paragraph (5). In preparing such materials, the Secretary of Homeland Security shall consult with nongovernmental organizations with expertise on the legal rights of immigrant victims of battery, extreme cruelty, sexual assault, and other crimes.

(2) INFORMATION PAMPHLET.—The information pamphlet developed under paragraph (1) shall include information on the following:

(A) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.

(B) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence.

(C) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(D) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters, including access to protection orders.

(E) The obligations of parents to provide child support for children.

(F) Marriage fraud under United States immigration laws and the penalties for committing such fraud.

(G) A warning concerning the potential use of K nonimmigrant visas by United States citizens who have a history of committing domestic violence, sexual assault, child abuse, or other crimes and an explanation that such acts may not have resulted in a criminal record for such a citizen.

(H) Notification of the requirement under subsection (d)(3)(A) of this section that international marriage brokers provide foreign national clients with background information gathered on United States clients from searches of [Federal and State sex offender public registries] *the National Sex Offender Public Website* and collected from United States clients regarding their marital history and domestic violence or other violent criminal history, but that such information may not be complete or accurate because the United States client may not have a criminal record or may not have truthfully reported their marital or criminal record.

(3) SUMMARIES.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop summaries of the pamphlet developed under paragraph (1) that shall be used by Federal officials when reviewing the pamphlet in interviews under subsection (b) of this section.

(4) TRANSLATION.—

(A) IN GENERAL.—In order to best serve the language groups having the greatest concentration of K nonimmigrant visa applicants, the information pamphlet developed under paragraph (1) shall, subject to subparagraph (B), be translated by the Secretary of State into foreign languages, including Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, Hindi, and such other languages as the Secretary of State, in the Secretary's discretion, may specify.

(B) REVISION.—Every 2 years, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall determine at least 14 spe-

cific languages into which the information pamphlet is translated based on the languages spoken by the greatest concentrations of K nonimmigrant visa applicants.

(5) AVAILABILITY AND DISTRIBUTION.—The information pamphlet developed under paragraph (1) shall be made available and distributed as follows:

(A) MAILINGS TO K NONIMMIGRANT VISA APPLICANTS.—

(i) The pamphlet shall be mailed by the Secretary of State to each applicant for a K nonimmigrant visa at the same time that the instruction packet regarding the visa application process is mailed to such applicant. The pamphlet so mailed shall be in the primary language of the applicant or in English if no translation into the applicant's primary language is available.

(ii) The Secretary of Homeland Security shall provide to the Secretary of State, for inclusion in the mailing under clause (i), a copy of the petition submitted by the petitioner for such applicant under subsection (d) or (r) of section 1184 of this title.

(iii) The Secretary of Homeland Security shall provide to the Secretary of ⟦State any⟧ *State, for inclusion in the mailing described in clause (i), any* criminal background information the Secretary of Homeland Security possesses with respect to a petitioner under subsection (d) or (r) of section 1184 of this title. The Secretary of State, in turn, shall share any such criminal background information that is in government records or databases with the K nonimmigrant visa applicant who is the beneficiary of the petition. The visa applicant shall be informed that such criminal background information is based on available records and may not be complete. The Secretary of State also shall provide for the disclosure of such criminal background information to the visa applicant at the consular interview in the primary language of the visa applicant. ⟦Nothing in this clause shall be construed to authorize the Secretary of Homeland Security to conduct any new or additional criminal background check that is not otherwise conducted in the course of adjudicating such petitions.⟧

(iv) The Secretary of Homeland Security shall conduct a background check of the National Crime Information Center's Protection Order Database on each petitioner for a visa under subsection (d) or (r) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184). Any appropriate information obtained from such background check—

(I) shall accompany the criminal background information provided by the Secretary of Homeland Security to the Secretary of State and shared by the Secretary of State with a beneficiary of a petition referred to in clause (iii); and

(II) shall not be used or disclosed for any other purpose unless expressly authorized by law.

(v) The Secretary of Homeland Security shall create a cover sheet or other mechanism to accompany the information required to be provided to an applicant for a visa under subsection (d) or (r) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) by clauses (i) through (iv) of this paragraph or by clauses (i) and (ii) of subsection (r)(4)(B) of such section 214, that calls to the applicant's attention—

(I) whether the petitioner disclosed a protection order, a restraining order, or criminal history information on the visa petition;

(II) the criminal background information and information about any protection order obtained by the Secretary of Homeland Security regarding the petitioner in the course of adjudicating the petition; and

(III) whether the information the petitioner disclosed on the visa petition regarding any previous petitions filed under subsection (d) or (r) of such section 214 is consistent with the information in the multiple visa tracking database of the Department of Homeland Security, as described in subsection (r)(4)(A) of such section 214.

(B) CONSULAR ACCESS.—The pamphlet developed under paragraph (1) shall be made available to the public at all consular posts. The summaries described in paragraph (3) shall be made available to foreign service officers at all consular posts.

(C) POSTING ON FEDERAL WEBSITES.—The pamphlet developed under paragraph (1) shall be posted on the websites of the Department of State and the Department of Homeland Security, as well as on the websites of all consular posts processing applications for K nonimmigrant visas.

(D) INTERNATIONAL MARRIAGE BROKERS AND VICTIM ADVOCACY ORGANIZATIONS.—The pamphlet developed under paragraph (1) shall be made available to any international marriage broker, government agency, or nongovernmental advocacy organization.

(6) DEADLINE FOR PAMPHLET DEVELOPMENT AND DISTRIBUTION.—The pamphlet developed under paragraph (1) shall be distributed and made available (including in the languages specified under paragraph (4)) not later than 120 days after January 5, 2006.

(b) VISA AND ADJUSTMENT INTERVIEWS.—

(1) FIANCÉ(E)S, SPOUSES AND THEIR DERIVATIVES.—During an interview with an applicant for a K nonimmigrant visa, a consular officers shall—

(A) provide information, in the primary language of the visa applicant, on protection orders [or] *and* criminal convictions collected under subsection (a)(5)(A)(iii) of this section;

(B) provide a copy of the pamphlet developed under subsection (a)(1) of this section in English or another appropriate language and provide an oral summary, in the primary language of the visa applicant, of that pamphlet; and

(C) ask the applicant, in the primary language of the applicant, whether an international marriage broker has facilitated the relationship between the applicant and the United States petitioner, and, if so, obtain the identity of the international marriage broker from the applicant and confirm that the international marriage broker provided to the applicant the information and materials required under subsection (d)(3)(A)(iii) of this section.

(2) FAMILY-BASED APPLICANTS.—The pamphlet developed under subsection (a)(1) of this section shall be distributed directly to applicants for family-based immigration petitions at all consular and adjustment interviews for such visas. The Department of State or Department of Homeland Security officer conducting the interview shall review the summary of the pamphlet with the applicant orally in the applicant's primary language, in addition to distributing the pamphlet to the applicant in English or another appropriate language.

(c) CONFIDENTIALITY.—In fulfilling the requirements of this section, no official of the Department of State or the Department of Homeland Security shall disclose to a nonimmigrant visa applicant the name or contact information of any person who was granted a protection order or restraining order against the petitioner or who was a victim of a crime of violence perpetrated by the petitioner, but shall disclose the relationship of the person to the petitioner.

(d) REGULATION OF INTERNATIONAL MARRIAGE BROKERS—

[(1) PROHIBITION ON MARKETING CHILDREN.—An international marriage broker shall not provide any individual or entity with the personal contact information, photograph, or general information about the background or interests of any individual under the age of 18.]

(1) PROHIBITION ON MARKETING OF OR TO CHILDREN.—

(A) IN GENERAL.—An international marriage broker shall not provide any individual or entity with the personal contact information, photograph, or general information about the background or interests of any individual under the age of 18.

(B) COMPLIANCE.—To comply with the requirements of subparagraph (A), an international marriage broker shall—

(i) obtain a valid copy of each foreign national client's birth certificate or other proof of age document issued by an appropriate government entity;

(ii) indicate on such certificate or document the date it was received by the international marriage broker;

(iii) retain the original of such certificate or document for 7 years after such date of receipt; and

(iv) produce such certificate or document upon request to an appropriate authority charged with the enforcement of this paragraph.

(2) REQUIREMENTS OF INTERNATIONAL MARRIAGE BROKERS WITH RESPECT TO MANDATORY COLLECTION OF BACKGROUND INFORMATION.—

(A) IN GENERAL.—

(i) SEARCH OF SEX OFFENDER PUBLIC [REGISTRIES] *WEBSITE.*—Each international marriage broker shall search the National Sex Offender Public [Registry or State sex offender public registry,] *website,* as required under paragraph (3)(A)(i).

(ii) COLLECTION OF BACKGROUND INFORMATION.—Each international marriage broker shall also collect the background information listed in subparagraph (B) about the United States client to whom the personal contact information of a foreign national client would be provided.

(B) BACKGROUND INFORMATION.—The international marriage broker shall collect a certification signed (in written, electronic, or other form) by the United States client accompanied by documentation or an attestation of the following background information about the United States client:

(i) Any temporary or permanent civil protection order or restraining order issued against the United States client.

(ii) Any Federal, State, or local arrest or conviction of the United States client for homicide, murder, manslaughter, assault, battery, domestic violence, rape, sexual assault, abusive sexual contact, sexual exploitation, incest, child abuse or neglect, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, [or stalking.] *stalking, or an attempt to commit any such crime.*

(iii) Any Federal, State, or local arrest or conviction of the United States client for—

(I) solely, principally, or incidentally engaging in prostitution;

(II) a direct or indirect attempt to procure prostitutes or persons for the purpose of prostitution; or

(III) receiving, in whole or in part, of the proceeds of prostitution.

(iv) Any Federal, State, or local arrest or conviction of the United States client for offenses related to controlled substances or alcohol.

(v) Marital history of the United States client, including whether the client is currently married, whether the client has previously been married and how many times, how previous marriages of the client were terminated and the date of termination, and whether the client has previously sponsored an alien to whom the client was engaged or married.

(vi) The ages of any of the United States client's children who are under the age of 18.

(vii) All States and countries in which the United States client has resided since the client was 18 years of age.

(3) OBLIGATION OF INTERNATIONAL MARRIAGE BROKERS WITH RESPECT TO INFORMED CONSENT.—

(A) LIMITATION ON SHARING INFORMATION ABOUT FOREIGN NATIONAL CLIENTS.—An international marriage broker shall not provide any United States client or representative with the personal contact information of any foreign national client unless and until the international marriage broker has—

(i) performed a search of the National Sex Offender Public [Registry, or of the relevant State sex offender public registry for any State not yet participating in the National Sex Offender Public Registry in which the United States client has resided during the previous 20 years,] *website* for information regarding the United States client;

(ii) collected background information about the United States client required under paragraph (2);

(iii) provided to the foreign national client—

(I) in the foreign national client's primary language, a copy of any records retrieved from the search required under paragraph (2)(A)(i) or documentation confirming that such search retrieved no records;

(II) in the foreign national client's primary language, a copy of the [background information collected by the international marriage broker under paragraph (2)(B);] *signed certification and accompanying documentation or attestation regarding the background information collected under paragraph (2)(B);* and

(III) in the foreign national client's primary language (or in English or other appropriate language if there is no translation available into the client's primary language), the pamphlet developed under subsection (a)(1) of this section; and

(iv) received from the foreign national client a signed, written consent, in the foreign national client's primary language, to release the foreign national client's personal contact information to the specific United States client.

(B) CONFIDENTIALITY.—In fulfilling the requirements of this paragraph, an international marriage broker shall disclose the relationship of the United States client to individuals who were issued a protection order or restraining order as described in clause (i) of paragraph (2)(B), or of any other victims of crimes as described in clauses (ii) through (iv) of such paragraph, but shall not disclose the name or location information of such individuals.

[(C) PENALTY FOR MISUSE OF INFORMATION.—A person who knowingly discloses, uses, or causes to be used any information obtained by an international marriage broker as

a result of the obligations imposed on it under paragraph (2) and this paragraph for any purpose other than the disclosures required under this paragraph shall be fined in accordance with Title 18 or imprisoned not more than 1 year, or both. These penalties are in addition to any other civil or criminal liability under Federal or State law which a person may be subject to for the misuse of that information, including to threaten, intimidate, or harass any individual. Nothing in this section shall prevent the disclosure of such information to law enforcement or pursuant to a court order.]

(4) LIMITATION ON DISCLOSURE.—An international marriage broker shall not provide the personal contact information of any foreign national client to any person or entity other than a United States client. Such information shall not be disclosed to potential United States clients or individuals who are being recruited to be United States clients or representatives.

(5) PENALTIES.—

(A) FEDERAL CIVIL PENALTY.—

(i) VIOLATION.—An international marriage broker that violates (or attempts to violate) paragraph (1), (2), (3), or (4) is subject to a civil penalty of not less than $5,000 and not more than $25,000 for each such violation.

(ii) PROCEDURES FOR IMPOSITION OF PENALTY.—[A penalty may be imposed under clause (i) by the Attorney General only] *At the discretion of the Attorney General, a penalty may be imposed under clause (i) either by a Federal judge, or by the Attorney General* after notice and an opportunity for an agency hearing on the record in accordance with subchapter II of chapter 5 of Title 5 (popularly known as the Administrative Procedure Act).

[(B) FEDERAL CRIMINAL PENALTY.—In circumstances in or affecting interstate or foreign commerce, an international marriage broker that, within the special maritime and territorial jurisdiction of the United States, violates (or attempts to violate) paragraph (1), (2), (3), or (4) shall be fined in accordance with Title 18 or imprisoned for not more than 5 years, or both.]

(B) FEDERAL CRIMINAL PENALTIES.—

(i) FAILURE OF INTERNATIONAL MARRIAGE BROKERS TO COMPLY WITH OBLIGATIONS.—Except as provided in clause (ii), an international marriage broker that, in circumstances in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States—

(I) except as provided in subclause (II), violates (or attempts to violate) paragraph (1), (2), (3), or (4) shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 1 year, or both; or

(II) knowingly violates or attempts to violate paragraphs (1), (2), (3), or (4) shall be fined in ac-

cordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(ii) MISUSE OF INFORMATION.—A person who knowingly discloses, uses, or causes to be used any information obtained by an international marriage broker as a result of a requirement under paragraph (2) or (3) for any purpose other than the disclosures required under paragraph (3) shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 1 year, or both.

(iii) FRAUDULENT FAILURES OF UNITED STATES CLIENTS TO MAKE REQUIRED SELF-DISCLOSURES.—A person who knowingly and with intent to defraud another person outside the United States in order to recruit, solicit, entice, or induce that other person into entering a dating or matrimonial relationship, makes false or fraudulent representations regarding the disclosures described in clause (i), (ii), (iii), or (iv) of subsection (d)(2)(B), including by failing to make any such disclosures, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 1 year, or both.

(iv) RELATIONSHIP TO OTHER PENALTIES.—The penalties provided in clauses (i), (ii), and (iii) are in addition to any other civil or criminal liability under Federal or State law to which a person may be subject for the misuse of information, including misuse to threaten, intimidate, or harass any individual.

(v) CONSTRUCTION.—Nothing in this paragraph or paragraph (3) or (4) may be construed to prevent the disclosure of information to law enforcement or pursuant to a court order.

(C) ADDITIONAL REMEDIES.—The penalties and remedies under this subsection are in addition to any other penalties or remedies available under law**[**.**]** *including equitable remedies.*

(6) ENFORCEMENT.—

(A) AUTHORITY.—The Attorney General shall be responsible for the enforcement of the provisions of this section, including the prosecution of civil and criminal penalties provided for by this section.

(B) CONSULTATION.—The Attorney General shall consult with the Director of the Office on Violence Against Women of the Department of Justice to develop policies and public education designed to promote enforcement of this section.

[(6)**]** *(7)* NONPREEMPTION.—Nothing in this subsection shall preempt—

(A) any State law that provides additional protections for aliens who are utilizing the services of an international marriage broker; or

(B) any other or further right or remedy available under law to any party utilizing the services of an international marriage broker.

[(7)**]** *(8)* EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall take effect on the date that is 60 days after January 5, 2006.

(B) ADDITIONAL TIME ALLOWED FOR INFORMATION PAMPHLET.—The requirement for the distribution of the pamphlet developed under subsection (a)(1) of this section shall not apply until 30 days after the date of its development and initial distribution under subsection (a)(6) of this section.

* * * * * * *

(f) GAO [STUDY AND REPORT] *STUDIES AND REPORTS.*—

(1) STUDY.—The Comptroller General of the United States shall conduct a study—

(A) on the impact of this section and section 832 on the K nonimmigrant visa process, including specifically—

(i) annual numerical changes in petitions for K nonimmigrant visas;

(ii) the annual number (and percentage) of such petitions that are denied under subsection (d)(2) or (r) of section 1184 of this title, as amended by this Act;

(iii) the annual number of waiver applications submitted under such a subsection, the number (and percentage) of such applications granted or denied, and the reasons for such decisions;

(iv) the annual number (and percentage) of cases in which the criminal background information collected and provided to the applicant as required by subsection (a)(5)(A)(iii) of this section contains one or more convictions;

(v) the annual number and percentage of cases described in clause (iv) that were granted or were denied waivers under section 1184(d)(2) of this title, as amended by this Act;

(vi) the annual number of fiance(e) and spousal K nonimmigrant visa petitions or family-based immigration petitions filed by petitioners or applicants who have previously filed other fiance(e) or spousal K nonimmigrant visa petitions or family-based immigration petitions;

(vii) the annual number of fiance(e) and spousal K nonimmigrant visa petitions or family-based immigration petitions filed by petitioners or applicants who have concurrently filed other fiance(e) or spousal K nonimmigrant visa petitioners or family-based immigration petitions; and

(viii) the annual and cumulative number of petitioners and applicants tracked in the multiple filings database established under paragraph (4) of section 1184(r) of this title, as added by this Act;

(B) regarding the number of international marriage brokers doing business in the United States, the number of marriages resulting from the services provided, and the extent of compliance with the applicable requirements of this section;

(C) that assesses the accuracy and completeness of information gathered under section 832 and this section from clients and petitioners by international marriage brokers, the Department of State, or the Department of Homeland Security;

(D) that examines, based on the information gathered, the extent to which persons with a history of violence are using either the K nonimmigrant visa process or the services of international marriage brokers, or both, and the extent to which such persons are providing accurate and complete information to the Department of State or the Department of Homeland Security and to international marriage brokers in accordance with subsections (a) and (d)(2)(B) of this section; and

(E) that assesses the accuracy and completeness of the criminal background check performed by the Secretary of Homeland Security at identifying past instances of domestic violence.

(2) REPORT.—Not later than 2 years after January 5, 2006, the Comptroller General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report setting forth the results of the study conducted under paragraph (1).

(3) DATA COLLECTION.—The Secretary of Homeland Security and the Secretary of State shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the study required by paragraph (1).

(4) CONTINUING IMPACT STUDY AND REPORT.—

(A) STUDY.—The Comptroller General shall conduct a study on the continuing impact of the implementation of this section and of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) on the process for granting K nonimmigrant visas, including specifically a study of the items described in subparagraphs (A) through (E) of paragraph (1).

(B) REPORT.—Not later than 2 years after the date of the enactment of the Violence Against Women Reauthorization Act of 2011, the Comptroller General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report setting forth the results of the study conducted under subparagraph (A).

(C) DATA COLLECTION.—The Attorney General, the Secretary of Homeland Security, and the Secretary of State shall collect and maintain the data necessary for the Comptroller General to conduct the study required by paragraph (1)(A).

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TITLE 18—CRIMES AND CRIMINAL PROCEDURE

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PART I—CRIMES

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CHAPTER 7—ASSAULT

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SEC. 113. ASSAULTS WITHIN MARITIME AND TERRITORIAL JURISDICTION.

(a) Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

[(1) Assault with intent to commit murder, by imprisonment for not more than twenty years.]

(1) Assault with intent to commit murder or a violation of section 2241 or 2242, by a fine under this title, imprisonment for not more than 20 years, or both.

(2) Assault with intent to commit any felony, except murder or a [felony under chapter 109A] *violation of section 2241 or 2242*, by a fine under this title or imprisonment for not more than ten years, or both.

(3) Assault with a dangerous weapon, with intent to do bodily harm, [and without just cause or excuse,] by a fine under this title or imprisonment for not more than ten years, or both.

(4) Assault by striking, beating, or wounding, by a fine under this title or imprisonment for not more than [six months] *1 year,* or both.

(5) Simple assault, by a fine under this title or imprisonment for not more than six months, or both, or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both.

(6) Assault resulting in serious bodily injury, by a fine under this title or imprisonment for not more than ten years, or both.

(7) Assault resulting in [substantial bodily injury to an individual who has not attained the age of 16 years] *substantial bodily injury to a spouse or intimate partner, a dating partner, or an individual who has not attained the age of 16 years*, by [fine] *a fine* under this title or imprisonment for not more than 5 years, or both.

(8) Assault of a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate, by a fine under this title, imprisonment for not more than 10 years, or both.

[(b) As used in this subsection—]

(b) DEFINITIONS.—In this section—

(1) the term "substantial bodily injury" means bodily injury which involves—

(A) a temporary but substantial disfigurement; or

(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; [and]

(2) the term "serious bodily injury" has the meaning given that term in section 1365 of this title[.]*;*

(3) the terms "dating partner" and "spouse or intimate partner" have the meanings given those terms in section 2266;

(4) the term "strangling" means intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim; and

(5) the term "suffocating" means intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.

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CHAPTER 53—INDIANS

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SEC. 1153. OFFENSES COMMITTED WITHIN INDIAN COUNTRY.

(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, [assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title)] *a felony assault under section 113*, an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

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CHAPTER 109A—SEXUAL ABUSE

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SEC. 2241. AGGRAVATED SEXUAL ABUSE.

(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in Any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly causes another person to engage in a sexual act—

(1) by using force against that other person; or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for [any term of years or life] *not less than 5 years or imprisoned for life*, or both.

* * * * * * *

SEC. 2243. SEXUAL ABUSE OF A MINOR OR WARD.

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[(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who is—

[(1) in official detention; and

[(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

[or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.]

(b) OF A WARD.—

(1) OFFENSES.—

(A) IN GENERAL.—It shall be unlawful for any person to knowingly engage, or knowingly attempt to engage, in a sexual act with another person who is—

(i) in official detention or under official supervision or other official control of, the United States—

(I) during or after arrest;

(II) after release pretrial;

(III) while on bail, probation, supervised release, or parole;

(IV) after release following a finding of juvenile delinquency; or

(V) after release pending any further judicial proceedings;

(ii) under the professional custodial, supervisory, or disciplinary control or authority of the person engaging or attempting to engage in the sexual act; and

(iii) at the time of the sexual act—

(I) in the special maritime and territorial jurisdiction of the United States;

(II) in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of, or pursuant to a contract or agreement with, the United States; or

(III) under supervision or other control by the United States, or by direction of, or pursuant to a contract or agreement with, the United States.

(B) SEXUAL CONTACT.—It shall be unlawful for any person to knowingly engage in sexual contact with, or cause sexual contact by, another person, if to do so would violate subparagraph (A) had the sexual contact been a sexual act.

(2) PENALTIES.—

(A) IN GENERAL.—A person that violates paragraph (1)(A) shall—

(i) be fined under this title, imprisoned for not more than 15 years, or both; and

(ii) if, in the course of committing the violation of paragraph (1), the person engages in conduct that would constitute an offense under section 2241 or 2242 if committed in the special maritime and territorial jurisdiction of the United States, be subject to the penalties provided for under section 2241 or 2242, respectively.

(B) SEXUAL CONTACT.—A person that violates paragraph (1)(B) shall be fined under this title, imprisoned for not more than 2 years, or both.

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CHAPTER 110A—DOMESTIC VIOLENCE AND STALKING

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SEC. 2261. INTERSTATE DOMESTIC VIOLENCE.

(a) OFFENSES.—

(1) TRAVEL OR CONDUCT OF OFFENDER.—A person who travels in interstate or foreign commerce or enters or leaves Indian country or *is present* within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel *or presence*, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

(2) CAUSING TRAVEL OF VICTIM.—A person who causes a spouse, intimate partner, or dating partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

(b) PENALTIES.—A person who violates this section or section 2261A shall be fined under this title, imprisoned—

(1) for life or any term of years, if death of the victim results;

(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

(3) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

(5) for not more than 5 years, in any other case,

(6) Whoever commits the crime of stalking in violation of a temporary or permanent civil or criminal injunction, restraining order, no-contact order, or other order described in section

2266 of title 18, United States Code, shall be punished by imprisonment for not less than 1 year.

or both fined and imprisoned.

* * * * * * *

[SEC. 2261A. STALKING.

[Whoever—

[(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional distress to that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

[(2) with the intent—

[(A) to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

[(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

[(i) that person;

[(ii) a member of the immediate family (as defined in section 115 of that person; or

[(iii) a spouse or intimate partner of that person;

[uses the mail, any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B);

[shall be punished as provided in section 2261(b) of this title.]

SEC. 2261A. STALKING.

Whoever—

(1) travels in interstate or foreign commerce or is present within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel or presence engages in conduct that—

(A) places that person in reasonable fear of the death of, or serious bodily injury to—

(i) that person;

(ii) an immediate family member (as defined in section 115) of that person; or

(iii) a spouse or intimate partner of that person; or

(B) causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of subparagraph (A); or

(2) with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, uses the mail, any interactive computer service or electronic communication service or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct that—

(A) places that person in reasonable fear of the death of or serious bodily injury to a person described in clause (i), (ii), or (iii) of paragraph (1)(A); or

(B) causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of paragraph (1)(A),

shall be punished as provided in section 2261(b) of this title.

* * * * * * *

SEC. 2262. INTERSTATE VIOLATION OF PROTECTION ORDER.

(a) OFFENSES.—

(1) TRAVEL OR CONDUCT OF OFFENDER.—A person who travels in interstate or foreign commerce, or enters or leaves Indian country or within the special maritime and territorial jurisdiction of the United States, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

(2) CAUSING TRAVEL OF VICTIM.—A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).

(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

(1) for life or any term of years, if death of the victim results;

(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

(3) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in

the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

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SEC. 2265. FULL FAITH AND CREDIT GIVEN TO PROTECTION ORDERS.

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[(e) TRIBAL COURT JURISDICTION.—For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.]

(e) TRIBAL COURT JURISDICTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.

(2) APPLICABILITY.—Paragraph (1)—

(A) shall not apply to an Indian tribe in the State of Alaska, except with respect to the Metlakatla Indian Community, Annette Islands Reserve; and

(B) shall not limit, alter, expand, or diminish the civil or criminal jurisdiction of the State of Alaska or any subdivision of the State of Alaska.

* * * * * * *

SEC. 2265A. REPEAT OFFENDERS.

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior domestic violence or stalking offense shall be twice the term otherwise provided under this chapter.

(b) DEFINITION.—For purposes of this section—

(1) the term "prior domestic violence or stalking offense" means a conviction for an offense—

(A) under section 2261, 2261A, or 2262 of this chapter; or

(B) under State *or tribal* law for an offense consisting of conduct that would have been an offense under a section referred to in subparagraph (A) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States, or in interstate or foreign commerce; and

(2) the term "State" means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

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TITLE 20—EDUCATION

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CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

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Subchapter IV—Student Assistance

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PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

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SEC. 1092. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.

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(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the law enforcement authority of campus security personnel;

(ii) the working relationship of campus security personnel with State and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses; and

(iii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies[.]*, when the victim of such crime elects or is unable to make such a report.*

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;

(II) sex offenses, forcible or nonforcible;

(III) robbery;

(IV) aggravated assault;

(V) burglary;

(VI) motor vehicle theft;

(VII) manslaughter;

(VIII) arson; [and]

(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, [sexual orientation] *national origin, sexual orientation, gender identity,* ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice[.]*; and*

(iii) of domestic violence, dating violence, and stalking incidents that were reported to campus security authorities or local police agencies.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and en-

forcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1011i of this title.

(I) A statement advising the campus community where law enforcement agency information provided by a State under section 14071(j) of Title 42, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(J) A statement of current campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to—

(i) immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;

(ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

(iii) test emergency response and evacuation procedures on an annual basis.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42, other than a foreign institution of higher education, shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely*, that withholds the names of victims as confidential,* and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42, other than a foreign institution of higher education, that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) the nature, date, time, and general location of each crime; and

(ii) the disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the con-

fidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42, other than a foreign institution of higher education, shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) review such statistics and report to the authorizing committees on campus crime statistics by September 1, 2000;

(B) make copies of the statistics submitted to the Secretary available to the public; and

(C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The terms "dating violence", "domestic violence", and "stalking" have the meaning given such terms in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

[(i)**]** *(ii)* The term "campus" means—

(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

[(ii)**]** *(iii)* The term "noncampus building or property" means—

(I) any building or property owned or controlled by a student organization recognized by the institution; and

(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

[(iii)] *(iv)* The term "public property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

(v) The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in [paragraph (1)(F)] *clauses (i) and (ii) of paragraph (1)(F)* shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. *For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).* Such statistics shall not identify victims of crimes or persons accused of crimes.

[(8)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

[(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

[(ii) the procedures followed once a sex offense has occurred.

[(B) The policy described in subparagraph (A) shall address the following areas:

[(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

[(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

[(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

[(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

[(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

[(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

[(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

[(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

[(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

[(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.]

(8)(A) Each institution of higher education participating in any program under this title and title IV of the Economic Opportunity Act of 1964, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's programs to prevent domestic violence, dating violence, sexual assault, and stalking; and

(ii) the procedures that such institution will follow once an incident of domestic violence, dating violence, sexual assault, or stalking has been reported.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include—

(I) primary prevention and awareness programs for all incoming students and new employees, which shall include—

(aa) a statement that the institution of higher education prohibits the offenses of domestic violence, dating violence, sexual assault, and stalking;

(bb) the definition of domestic violence, dating violence, sexual assault, and stalking in the applicable jurisdiction;

(cc) the definition of consent, in reference to sexual activity, in the applicable jurisdiction;

(dd) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;

(ee) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks; and

(ff) the information described in clauses (ii) through (vii); and

(II) ongoing prevention and awareness campaigns for students and faculty, including information described in items (aa) through (ff) of subclause (I).

(ii) Possible sanctions or protective measures that such institution may impose following a final determination of an institutional disciplinary procedure regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking.

(iii) Procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information in writing about—

(I) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;

(II) to whom the alleged offense should be reported;

(III) options regarding law enforcement and campus authorities, including notification of the victim's option to—

(aa) notify proper law enforcement authorities, including on-campus and local police;

(bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(cc) decline to notify such authorities; and

(IV) where applicable, the rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

(iv) Procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking, which shall include a clear statement that—

(I) such proceedings shall—

(aa) provide a prompt and equitable investigation and resolution; and

(bb) be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing proc-

ess that protects the safety of victims and promotes accountability;

(II) the accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice; and

(III) both the accuser and the accused shall be simultaneously informed, in writing, of—

(aa) the outcome of any institutional disciplinary proceeding that arises from an allegation of domestic violence, dating violence, sexual assault, or stalking;

(bb) the institution's procedures for the accused and the victim to appeal the results of the institutional disciplinary proceeding;

(cc) of any change to the results that occurs prior to the time that such results become final; and

(dd) when such results become final.

(v) Information about how the institution will protect the confidentiality of victims, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law.

(vi) Written notification of students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community.

(vii) Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

(C) A student or employee who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's rights and options, as described in clauses (ii) through (vii) of subparagraph (B).

(9) ⟦The Secretary⟧ *The Secretary, in consultation with the Attorney General of the United States,* shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher

education shall distinguish, by means of separate categories, any criminal offenses that occur—

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14)(A) Nothing in this subsection may be construed to—

(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

[(16) The Secretary may seek the advice and counsel of the Attorney General concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.**]**

(16)(A) The Secretary shall seek the advice and counsel of the Attorney General of the United States concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

(B) The Secretary shall seek the advice and counsel of the Attorney General of the United States and the Secretary of Health and Human Services concerning the development, and dissemination to institutions of higher education, of best practices information about preventing and responding to incidents of domestic violence, dating violence, sexual assault, and stalking, including elements of institutional policies that have proven successful based on evidence-based outcome measurements.

[(17) Nothing in this subsection shall be construed to permit an institution, or an officer, employee, or agent of an institution, participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this subsection.**]**

(17) No officer, employee, or agent of an institution participating in any program under this title shall retaliate, intimi-

date, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision of this subsection.

(18) This subsection may be cited as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act".

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TITLE 25—INDIANS

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CHAPTER 30—INDIAN LAW ENFORCEMENT REFORM

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SEC. 2812. INDIAN LAW AND ORDER COMMISSION.

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(f) REPORT.—Not later than [2 years] *3 years* after July 29, 2010, the Commission shall submit to the President and Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the Commission; and

(2) the recommendations of the Commission for such legislative and administrative actions as the Commission considers to be appropriate.

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TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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PART II—DEPARTMENT OF JUSTICE

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CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION

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SEC. 534. ACQUISITION, PRESERVATION, AND EXCHANGE OF IDENTIFICATION RECORDS AND INFORMATION; APPOINTMENT OF OFFICIALS.

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Note.

Tribal Registry

Pub. L. 109–162, Title IX, § 905(b), Jan. 5, 2006, 119 Stat. 3080, provided that:

(1) ESTABLISHMENT.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

(A) a national tribal sex offender registry; and

(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of [fiscal years 2007 through 2011] *fiscal years 2012 through 2016,* to remain available until expended.

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PART IV—JURISDICTION AND VENUE

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CHAPTER 85—DISTRICT COURTS; JURISDICTION

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SEC. 1346. UNITED STATES AS DEFENDANT.

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(b)(1) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury *or the commission of a sexual act (as defined in section 2246 of title 18).*

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

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CHAPTER 6A—PUBLIC HEALTH SERVICE

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Subchapter II—General Powers and Duties

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PART J—PREVENTION AND CONTROL OF INJURIES

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SEC. 280b–1b. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

(a) PERMITTED USE.—The Secretary, acting through the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, shall award targeted grants to States to be used for rape prevention and education programs conducted by rape crisis centers, State, *territorial or tribal* sexual assault coalitions, and other public and private nonprofit entities for—

(1) educational seminars;

(2) the operation of hotlines;

(3) training programs for professionals;

(4) the preparation of informational material;

(5) education and training programs for students and campus personnel designed to reduce the incidence of sexual assault at colleges and universities;

(6) education to increase awareness about drugs *and alcohol* used to facilitate rapes or sexual assaults; and

(7) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved communities and awareness among individuals with disabilities (as defined in section 12102 of this title).

(b) COLLECTION AND DISSEMINATION OF INFORMATION ON SEXUAL ASSAULT.—The Secretary shall, through the National Resource Center on Sexual Assault established under the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, provide resource information, policy, training, and technical assistance to Federal, State, local, and Indian tribal agencies, as well as to State sexual assault coalitions and local sexual assault programs and to other professionals and interested parties on issues relating to sexual assault, including maintenance of a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section ⟦$80,000,000 for each of fiscal years 2007 through 2011⟧ *$50,000,000 for each of fiscal years 2012 through 2016.*

(2) NATIONAL SEXUAL VIOLENCE RESOURCE CENTER ALLOTMENT.—Of the total amount made available under this subsection in each fiscal year, not less than $1,500,000 shall be available for allotment under subsection (b) of this section.

(3) BASELINE FUNDING FOR STATES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—A minimum allocation of $150,000 shall be awarded in each fiscal year for each of the States, the District of Columbia, and Puerto Rico. A minimum allocation of $35,000 shall be awarded in each fiscal year for each Territory. Any unused or remaining funds shall be allotted to each State, the District of Columbia, and Puerto Rico on the basis of population.

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SEC. 280b–4. STUDY CONDUCTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) PURPOSES.—The Secretary of Health and Human Services acting through the National Center for Injury Prevention and Control at the Centers for Disease Control Prevention shall make grants to entities, including domestic and sexual assault coalitions and programs, research organizations, tribal organizations, and academic institutions to support research to examine prevention and intervention programs to further the understanding of sexual and domestic violence by and against adults, youth, and children.

(b) USE OF FUNDS.—The research conducted under this section shall include evaluation and study of best practices for reducing and preventing violence against women and children addressed by the strategies included in Department of Health and Human Services-related provisions this title, including strategies addressing underserved communities.

(c) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated to carry out this title [$2,000,000 for each of the fiscal years 2007 through 2011] *$1,000,000 for each of the fiscal years 2012 through 2016.*

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PART P—ADDITIONAL PROGRAMS

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[SEC. 280g–4. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING.

[(a) AUTHORITY TO AWARD GRANTS.—

[(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible State, tribal, territorial, or local entities to strengthen the response of State, tribal, territorial, or local health care systems to domestic violence, dating violence, sexual assault, and stalking.

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

[(A) Be.—

[(i) a State department (or other division) of health, a State domestic or sexual assault coalition or service-based program, State law enforcement task force, or any other nonprofit, nongovernmental, tribal, territorial, or State entity with a history of effective work in the fields of domestic violence, dating violence, sexual assault or stalking, and health care; or

[(ii) a local, nonprofit domestic violence, dating violence, sexual assault, or stalking 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 or sexual violence and health;

[(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such agree-

ments, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the grant is to be made; and

[(C) demonstrate that the entity is representing a team of organizations and agencies working collaboratively to strengthen the response of the health care system involved to domestic violence, dating violence, sexual assault, or stalking and that such team includes domestic violence, dating violence, sexual assault or stalking and health care organizations.

[(3) DURATION.—A program conducted under a grant awarded under this section shall not exceed 2 years.

[(b) USE OF FUNDS.—

[(1) IN GENERAL.—An entity shall use amounts received under a grant under this section to design and implement comprehensive strategies to improve the response of the health care system involved to domestic or sexual violence in clinical and public health settings, hospitals, clinics, managed care settings (including behavioral and mental health), and other health settings.

[(2) MANDATORY STRATEGIES.—Strategies implemented under paragraph (1) shall include the following:

[(A) The implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and behavioral and public health staff in responding to domestic violence, dating violence, sexual assault, and stalking, including strategies to ensure that health information is maintained in a manner that protects the patient's privacy and safety and prohibits insurance discrimination.

[(B) 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 behavioral and public health staff to address domestic violence, dating violence, sexual assault, and stalking, by contracting with or hiring domestic or sexual assault advocates to provide the services, or to model other services appropriate to the geographic and cultural needs of a site.

[(C) The evaluation of practice and the institutionalization of identification, intervention, and documentation including quality improvement measurements.

[(D) The provision of training and followup technical assistance to health care professionals, behavioral and public health staff, and allied health professionals to identify, assess, treat, and refer clients who are victims of domestic violence, dating violence, sexual violence, or stalking.

[(3) PERMISSIVE STRATEGIES.—Strategies implemented under paragraph (1) may include the following:

[(A) Where appropriate, the development of training modules and policies that address the overlap of child abuse, domestic violence, dating violence, sexual assault, and stalking and elder abuse as well as childhood exposure to domestic violence.

[(B) The creation, adaptation, and implementation of public education campaigns for patients concerning domestic violence, dating violence, sexual assault, and stalking prevention.

[(C) The development, adaptation, and dissemination of domestic violence, dating violence, sexual assault, and stalking education materials to patients and health care professionals and behavioral and public health staff.

[(D) The promotion of the inclusion of domestic violence, dating violence, sexual assault, and stalking into health professional training schools, including medical, dental, nursing school, social work, and mental health curriculum.

[(E) The integration of domestic violence, dating violence, sexual assault, and stalking into health care accreditation and professional licensing examinations, such as medical, dental, social work, and nursing boards.

[(c) ALLOCATION OF FUNDS.—Funds appropriated under this section shall be distributed equally between State and local programs.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to award grants under this section, $5,000,000 for each of fiscal years 2007 through 2011.]

SEC. 280g–4. GRANTS TO STRENGTHEN THE HEALTH CARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING.

(a) IN GENERAL.—The Secretary shall award grants for—

(1) the development or enhancement and implementation of interdisciplinary training for health professionals, public health staff, and allied health professionals;

(2) the development or enhancement and implementation of education programs for medical, nursing, dental, and other health profession students and residents to prevent and respond to domestic violence, dating violence, sexual assault, and stalking; and

(3) the development or enhancement and implementation of comprehensive statewide strategies to improve the response of clinics, public health facilities, hospitals, and other health settings (including behavioral and mental health programs) to domestic violence, dating violence, sexual assault, and stalking.

(b) USE OF FUNDS.—

(1) REQUIRED USES.—Amounts provided under a grant under this section shall be used to—

(A) fund interdisciplinary training and education programs under paragraphs (1) and (2) of subsection (a) that—

(i) are designed to train medical, psychology, dental, social work, nursing, and other health profession students, interns, residents, fellows, or current health care providers to identify and provide health care services (including mental or behavioral health care services and referrals to appropriate community services) to individuals who are or who have been victims of domestic violence, dating violence, sexual assault, or stalking; and

(ii) plan and develop culturally competent clinical training components for integration into approved internship, residency, and fellowship training or continuing medical or other health education training that address physical, mental, and behavioral health issues, including protective factors, related to domestic violence, dating violence, sexual assault, stalking, and other forms of violence and abuse, focus on reducing health disparities and preventing violence and abuse, and include the primacy of victim safety and confidentiality;

(B) design and implement comprehensive strategies to improve the response of the health care system to domestic or sexual violence in clinical and public health settings, hospitals, clinics, and other health settings (including behavioral and mental health), under subsection (a)(3) through—

(i) the implementation, dissemination, and evaluation of policies and procedures to guide health professionals and public health staff in identifying and responding to domestic violence, dating violence, sexual assault, and stalking, including strategies to ensure that health information is maintained in a manner that protects the patient's privacy and safety, and safely uses health information technology to improve documentation, identification, assessment, treatment, and follow-up care;

(ii) the development of on-site access to services to address the safety, medical, and mental health needs of patients by increasing the capacity of existing health care professionals and public health staff to address domestic violence, dating violence, sexual assault, and stalking, or by contracting with or hiring domestic or sexual assault advocates to provide such services or to model other services appropriate to the geographic and cultural needs of a site;

(iii) the development of measures and methods for the evaluation of the practice of identification, intervention, and documentation regarding victims of domestic violence, dating violence, sexual assault, and stalking, including the development and testing of quality improvement measurements, in accordance with the multi-stakeholder and quality measurement processes established under paragraphs (7) and (8) of section 1890(b) and section 1890A of the Social Security Act (42 U.S.C. 1395aaa(b)(7) and (8); 42 U.S.C. 1890A); and

(iv) the provision of training and follow-up technical assistance to health care professionals, and public health staff, and allied health professionals to identify, assess, treat, and refer clients who are victims of domestic violence, dating violence, sexual assault, or stalking, including using tools and training materials already developed.

(2) PERMISSIBLE USES.—

(A) CHILD AND ELDER ABUSE.—To the extent consistent with the purpose of this section, a grantee may use amounts received under this section to address, as part of a comprehensive programmatic approach implemented under the grant, issues relating to child or elder abuse.

(B) RURAL AREAS.—Grants funded under paragraphs (1) and (2) of subsection (a) may be used to offer to rural areas community-based training opportunities, which may include the use of distance learning networks and other available technologies needed to reach isolated rural areas, for medical, nursing, and other health profession students and residents on domestic violence, dating violence, sexual assault, stalking, and, as appropriate, other forms of violence and abuse.

(C) OTHER USES.—Grants funded under subsection (a)(3) may be used for—

(i) the development of training modules and policies that address the overlap of child abuse, domestic violence, dating violence, sexual assault, and stalking and elder abuse, as well as childhood exposure to domestic and sexual violence;

(ii) the development, expansion, and implementation of sexual assault forensic medical examination or sexual assault nurse examiner programs;

(iii) the inclusion of the health effects of lifetime exposure to violence and abuse as well as related protective factors and behavioral risk factors in health professional training schools including medical, dental, nursing, social work, and mental and behavioral health curricula, and allied health service training courses; or

(iv) the integration of knowledge of domestic violence, dating violence, sexual assault, and stalking into health care accreditation and professional licensing examinations, such as medical, dental, social work, and nursing boards, and where appropriate, other allied health exams.

(c) REQUIREMENTS FOR GRANTEES.—

(1) CONFIDENTIALITY AND SAFETY.—

(A) IN GENERAL.—Grantees under this section shall ensure that all programs developed with grant funds address issues of confidentiality and patient safety and comply with applicable confidentiality and nondisclosure requirements under section 40002(b)(2) of the Violence Against Women Act of 1994 and the Family Violence Prevention and Services Act, and that faculty and staff associated with delivering educational components are fully trained in procedures that will protect the immediate and ongoing security and confidentiality of the patients, patient records, and staff. Such grantees shall consult entities with demonstrated expertise in the confidentiality and safety needs of victims of domestic violence, dating violence, sexual assault, and stalking on the development and adequacy of

confidentially and security procedures, and provide documentation of such consultation.

(B) ADVANCE NOTICE OF INFORMATION DISCLOSURE.—Grantees under this section shall provide to patients advance notice about any circumstances under which information may be disclosed, such as mandatory reporting laws, and shall give patients the option to receive information and referrals without affirmatively disclosing abuse.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall use not more than 10 percent of the amounts received under a grant under this section for administrative expenses.

(3) APPLICATION.—

(A) PREFERENCE.—In selecting grant recipients under this section, the Secretary shall give preference to applicants based on the strength of their evaluation strategies, with priority given to outcome based evaluations.

(B) SUBSECTION (A)(1) AND (2) GRANTEES.—Applications for grants under paragraphs (1) and (2) of subsection (a) shall include—

(i) documentation that the applicant represents a team of entities working collaboratively to strengthen the response of the health care system to domestic violence, dating violence, sexual assault, or stalking, and which includes at least one of each of—

(I) an accredited school of allopathic or osteopathic medicine, psychology, nursing, dentistry, social work, or other health field;

(II) a health care facility or system; or

(III) a government or nonprofit entity with a history of effective work in the fields of domestic violence, dating violence, sexual assault, or stalking; and

(ii) strategies for the dissemination and sharing of curricula and other educational materials developed under the grant, if any, with other interested health professions schools and national resource repositories for materials on domestic violence, dating violence, sexual assault, and stalking.

(C) SUBSECTION (A)(3) GRANTEES.—An entity desiring a grant under subsection (a)(3) shall submit an application to the Secretary at such time, in such a manner, and containing such information and assurances as the Secretary may require, including—

(i) documentation that all training, education, screening, assessment, services, treatment, and any other approach to patient care will be informed by an understanding of violence and abuse victimization and trauma-specific approaches that will be integrated into prevention, intervention, and treatment activities;

(ii) strategies for the development and implementation of policies to prevent and address domestic violence, dating violence, sexual assault, and stalking over the lifespan in health care settings;

(iii) a plan for consulting with State and tribal domestic violence or sexual assault coalitions, national nonprofit victim advocacy organizations, State or tribal law enforcement task forces (where appropriate), and population specific organizations with demonstrated expertise in domestic violence, dating violence, sexual assault, or stalking;

(iv) with respect to an application for a grant under which the grantee will have contact with patients, a plan, developed in collaboration with local victim service providers, to respond appropriately to and make correct referrals for individuals who disclose that they are victims of domestic violence, dating violence, sexual assault, stalking, or other types of violence, and documentation provided by the grantee of an ongoing collaborative relationship with a local victim service provider; and

(v) with respect to an application for a grant proposing to fund a program described in subsection (b)(2)(C)(ii), a certification that any sexual assault forensic medical examination and sexual assault nurse examiner programs supported with such grant funds will adhere to the guidelines set forth by the Attorney General.

(d) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—To be eligible to receive funding under paragraph (1) or (2) of subsection (a), an entity shall be—

(A) a nonprofit organization with a history of effective work in the field of training health professionals with an understanding of, and clinical skills pertinent to, domestic violence, dating violence, sexual assault, or stalking, and lifetime exposure to violence and abuse;

(B) an accredited school of allopathic or osteopathic medicine, psychology, nursing, dentistry, social work, or allied health;

(C) a health care provider membership or professional organization, or a health care system; or

(D) a State, tribal, territorial, or local entity.

(2) SUBSECTION (A)(3) GRANTEES.—To be eligible to receive funding under subsection (a)(3), an entity shall be—

(A) a State department (or other division) of health, a State, tribal, or territorial domestic violence or sexual assault coalition or victim service provider, or any other nonprofit, nongovernmental organization with a history of effective work in the fields of domestic violence, dating violence, sexual assault, or stalking, and health care, including physical or mental health care; or

(B) a local victim service provider, a local department (or other division) of health, a local health clinic, hospital, or health system, or any other community-based organization with a history of effective work in the field of domestic violence, dating violence, sexual assault, or stalking and health care, including physical or mental health care.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Of the funds made available to carry out this section for any fiscal year, the Secretary may make grants or enter into contracts to provide technical assistance with respect to the planning, development, and operation of any program, activity or service carried out pursuant to this section. Not more than 8 percent of the funds appropriated under this section in each fiscal year may be used to fund technical assistance under this subsection.

(2) AVAILABILITY OF MATERIALS.—The Secretary shall make publicly available materials developed by grantees under this section, including materials on training, best practices, and research and evaluation.

(3) REPORTING.—The Secretary shall publish a biennial report on—

(A) the distribution of funds under this section; and

(B) the programs and activities supported by such funds.

(f) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—Of the funds made available to carry out this section for any fiscal year, the Secretary may use not more than 20 percent to make a grant or enter into a contract for research and evaluation of—

(A) grants awarded under this section; and

(B) other training for health professionals and effective interventions in the health care setting that prevent domestic violence, dating violence, and sexual assault across the lifespan, prevent the health effects of such violence, and improve the safety and health of individuals who are currently being victimized.

(2) RESEARCH.—Research authorized in paragraph (1) may include—

(A) research on the effects of domestic violence, dating violence, sexual assault, and childhood exposure to domestic, dating or sexual violence on health behaviors, health conditions, and health status of individuals, families, and populations, including underserved populations;

(B) research to determine effective health care interventions to respond to and prevent domestic violence, dating violence, sexual assault, and stalking;

(C) research on the impact of domestic, dating and sexual violence, childhood exposure to such violence, and stalking on the health care system, health care utilization, health care costs, and health status; and

(D) research on the impact of adverse childhood experiences on adult experience with domestic violence, dating violence, sexual assault, stalking, and adult health outcomes, including how to reduce or prevent the impact of adverse childhood experiences through the health care setting.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2012 through 2016.

(h) DEFINITIONS.—Except as otherwise provided herein, the definitions provided for in section 40002 of the Violence Against Women Act of 1994 shall apply to this section.

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Subchapter V—Health Professions Education

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PART D—INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES

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SEC. 294h. INTERDISCIPLINARY TRAINING AND EDUCATION ON DOMESTIC VIOLENCE AND OTHER TYPES OF VIOLENCE AND ABUSE

[(a) GRANTS.—The Secretary, acting through the Director of the Health Resources and Services Administration, shall award grants under this section to develop interdisciplinary training and education programs that provide undergraduate, graduate, post-graduate medical, nursing (including advanced practice nursing students), and other health professions students with an understanding of, and clinical skills pertinent to, domestic violence, sexual assault, stalking, and dating violence.

[(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

[(1) be an accredited school of allopathic or osteopathic medicine;

[(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

[(A) information to demonstrate that the applicant includes the meaningful participation of a school of nursing and at least one other school of health professions or graduate program in public health, dentistry, social work, midwifery, or behavioral and mental health;

[(B) strategies for the dissemination and sharing of curricula and other educational materials developed under the grant to other interested medical and nursing schools and national resource repositories for materials on domestic violence and sexual assault; and

[(C) a plan for consulting with community-based coalitions or individuals who have experience and expertise in issues related to domestic violence, sexual assault, dating violence, and stalking for services provided under the program carried out under the grant.

[(c) USE OF FUNDS.—

[(1) REQUIRED USES.—Amounts provided under a grant under this section shall be used to—

[(A) fund interdisciplinary training and education projects that are designed to train medical, nursing, and other health professions students and residents to identify and provide health care services (including mental or behavioral health care services and referrals to appropriate community services) to individuals who are experiencing or who have experienced domestic violence, sexual assault, and stalking or dating violence; and

[(B) plan and develop culturally competent clinical components for integration into approved residency training programs that address health issues related to domestic vi-

olence, sexual assault, dating violence, and stalking, along with other forms of violence as appropriate, and include the primacy of victim safety and confidentiality.

[(2) PERMISSIVE USES.—Amounts provided under a grant under this section may be used to—

[(A) offer community-based training opportunities in rural areas for medical, nursing, and other students and residents on domestic violence, sexual assault, stalking, and dating violence, and other forms of violence and abuse, which may include the use of distance learning networks and other available technologies needed to reach isolated rural areas; or

[(B) provide stipends to students who are underrepresented in the health professions as necessary to promote and enable their participation in clerkships, preceptorships, or other offsite training experiences that are designed to develop health care clinical skills related to domestic violence, sexual assault, dating violence, and stalking.

[(3) REQUIREMENTS.—

[(A) CONFIDENTIALITY AND SAFETY.—Grantees under this section shall ensure that all educational programs developed with grant funds address issues of confidentiality and patient safety, and that faculty and staff associated with delivering educational components are fully trained in procedures that will protect the immediate and ongoing security of the patients, patient records, and staff. Advocacy-based coalitions or other expertise available in the community shall be consulted on the development and adequacy of confidentially and security procedures, and shall be fairly compensated by grantees for their services.

[(B) RURAL PROGRAMS.—Rural training programs carried out under paragraph (2)(A) shall reflect adjustments in protocols and procedures or referrals that may be needed to protect the confidentiality and safety of patients who live in small or isolated communities and who are currently or have previously experienced violence or abuse.

[(4) CHILD AND ELDER ABUSE.—Issues related to child and elder abuse may be addressed as part of a comprehensive programmatic approach implemented under a grant under this section.

[(d) REQUIREMENTS OF GRANTEES.—

[(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

[(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 25 percent of the total cost of such activities.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $3,000,000 for each of fis-

cal years 2007 through 2011. Amounts appropriated under this subsection shall remain available until expended.]

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CHAPTER 8—LOW-INCOME HOUSING

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Subchapter I—General Program of Assisted Housing

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SEC. 1437d. CONTRACT PROVISIONS AND REQUIREMENTS; LOANS AND ANNUAL CONTRIBUTIONS

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(c) REVISION OF MAXIMUM INCOME LIMITS; CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS; NOTIFICATION OF ELIGIBILITY; INFORMAL HEARING; COMPLIANCE WITH PROCEDURES FOR SOUND MANAGEMENT.—Every contract for contributions shall provide that—

(1) the Secretary may require the public housing agency to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this chapter;

(2) the public housing agency shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the public housing agency shall review the incomes of families living in the project no less frequently than annually;

[(3) the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking;]

[(4)] *(3)* the public housing agency shall promptly notify (i) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (ii) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

[(5)] *(4)* the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units

available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;

(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

(C) the establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the public housing agency (together with tenant councils where they exist) enforces those standards fully and effectively;

(D) the development by local housing authority managements of viable homeownership opportunity programs for low-income families capable of assuming the responsibilities of homeownership;

(E) for each agency that receives assistance under this subchapter, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 500 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis; and

(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C.A. § 13601 et seq.] and any regulations issued under such subtitle.

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(l) LEASES; TERMS AND CONDITIONS; MAINTENANCE; TERMINATION.—Each public housing agency shall utilize leases which—

(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 1437j(c) of this title (relating to community service requirements); except that nothing in this subchapter shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;

(2) do not contain unreasonable terms and conditions;

(3) obligate the public housing agency to maintain the project in a decent, safe, and sanitary condition;

(4) require the public housing agency to give adequate written notice of termination of the lease which shall not be less than—

(A) a reasonable period of time, but not to exceed 30 days—

(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

(ii) in the event of any drug-related or violent criminal activity or any felony conviction;

(B) 14 days in the case of nonpayment of rent; and

(C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply;

(5) require that the public housing agency may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause[, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence];

(6) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy[; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A) or any Federal, State, or local law to the contrary, a public housing agency may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including

civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking];

(7) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(8) provide that any occupancy in violation of section 13661(b) of this title (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 13662 of this title (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;

(9) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(B) is violating a condition of probation or parole imposed under Federal or State law.

For purposes of paragraph (5), the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of Title 21).

* * * * * * *

[(u) CERTIFICATION AND CONFIDENTIALITY.—

[(1) CERTIFICATION.—

[(A) IN GENERAL.—A public housing agency responding to subsection (l)(5) and (6) of this section may request that

an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the individual receives a request for such certification from the public housing agency.

[(B) FAILURE TO PROVIDE CERTIFICATION.—If the individual does not provide the certification within 14 business days after the individual has received a request in writing for such certification from the public housing agency, nothing in this subsection, or in paragraph (5) or (6) of subsection (l) of this section, may be construed to limit the authority of the public housing agency to evict any tenant or lawful occupant that commits violations of a lease. The public housing agency may extend the 14-day deadline at its discretion.

[(C) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

[(i) providing the requesting public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

[(ii) producing a Federal, State, tribal, territorial, or local police or court record.

[(D) LIMITATION.—Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency's discretion, a public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

[(E) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

[(F) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with this statute by a public housing agency, or assisted housing provider based on the certification specified in subparagraphs

(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by subparagraph (D) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a public housing agency or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (l)(5) and (6) of this section.

[(2) CONFIDENTIALITY.—

[(A) IN GENERAL.—All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

[(i) requested or consented to by the individual in writing;

[(ii) required for use in an eviction proceeding under subsection (l)(5) or (6) of this section; or

[(iii) otherwise required by applicable law.

[(B) NOTIFICATION.—Public housing agencies must provide notice to tenants assisted under this section of their rights under this section and subsection (l)(5) and (6) of this section, including their right to confidentiality and the limits thereof.]

[(3) DEFINITIONS.—For purposes of this subsection, subsection (c)(3), and subsection (l)(5) and (6) of this section—

[(A) the term "domestic violence" has the same meaning given the term in section 13925 of this title;

[(B) the term "dating violence" has the same meaning given the term in section 13925 of this title;

[(C) the term "stalking" means—

[(i)(I) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

[(II) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

[(ii) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

[(I) that person;

[(II) a member of the immediate family of that person; or

[(III) the spouse or intimate partner of that person; and

[(D) the term "immediate family member" means, with respect to a person—

[(i) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

[(ii) any other person living in the household of that person and related to that person by blood or marriage.]

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SEC. 1437f. LOW-INCOME HOUSING ASSISTANCE.

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(c) CONTENTS AND PURPOSES OF CONTRACTS FOR ASSISTANCE PAYMENTS; AMOUNT AND SCOPE OF MONTHLY ASSISTANCE PAYMENTS.—

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[(9)(A) That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

[(B) An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

[(C)(i) Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

[(ii) Notwithstanding clause (i) or any Federal, State, or local law to the contrary, an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.

[(iii) Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

[(iv) Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

[(v) Nothing in clause (i) may be construed to limit the authority of an owner, manager, or public housing agency to evict or terminate from assistance any tenant or lawful occupant if the owner, manager or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

[(vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.]

(d) REQUIRED PROVISIONS AND DURATION OF CONTRACTS FOR ASSISTANCE PAYMENTS; WAIVER OF LIMITATION.—

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 1437c–1 of this title by the public housing agency [and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission];

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause[, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence];

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful en-

joyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy[, except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) Notwithstanding subclause (I) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants

or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking**]**;

* * * * * * *

(f) DEFINITIONS.—As used in this section—

(1) the term "owner" means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this chapter;

(4) the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C.A. § 12721 et seq.];

(5) the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of Title 21);

(6) the term "project-based assistance" means rental assistance under subsection (b) of this section that is attached to the structure pursuant to subsection (d)(2) or (o)(13) of this section; *and*

(7) the term "tenant-based assistance" means rental assistance under subsection (o) of this section that is not project-based assistance and that provides for the eligible family to select suitable housing and to move to other suitable housing**[**;**]**.

[(8) the term "domestic violence" has the same meaning given the term in section 13925 of this title;

[(9) the term "dating violence" has the same meaning given the term in section 13925 of this title;

[(10) the term "stalking" means—

[(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or

[(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

[(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

[(i) that person;

[(ii) a member of the immediate family of that person; or

[(iii) the spouse or intimate partner of that person; and

[(11) the term "immediate family member" means, with respect to a person—

[(A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

[(B) any other person living in the household of that person and related to that person by blood or marriage.]

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(o) VOUCHER PROGRAM.—

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(6) SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.—

(A) PREFERENCES.—

(i) AUTHORITY TO ESTABLISH.—Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of Title 18) that has been reported to an appropriate law enforcement agency.

(ii) CONTENT.—Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 1437c–1(f) of this title and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(B) SELECTION OF TENANTS.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish. That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission. [Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.]

(C) PHA DISAPPROVAL OF OWNERS.—In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance

payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant's household, any guest, or any other person under the control of any member of the household that—

(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

(iii) is drug-related or violent criminal activity.

(7) LEASES AND TENANCY.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

(i) are in a standard form used in the locality by the dwelling unit owner; and

(ii) contain terms and conditions that—

(I) are consistent with State and local law; and

(II) apply generally to tenants in the property who are not assisted under this section;

(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause, [and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence] and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

(i) will occupy the unit as a primary residence; and

(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.;

(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety, or right

to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy[; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) Limitation.—Notwithstanding clause (i) or any Federal, State, or local law to the contrary, a public housing agency may terminate assistance to, or an owner or manager may bifurcate a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing. (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to

other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.**]***;*

(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

(F) may include any addenda required by the Secretary to set forth the provisions of this subsection. In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 2602 of Title 12) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants**[**;**]**.

* * * * * * *

[(20) PROHIBITED BASIS FOR TERMINATION OF ASSISTANCE.—

[(A) IN GENERAL.—A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

[(B) CONSTRUAL OF LEASE PROVISIONS.—Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal activity justifying termination of assistance to the victim or threatened victim.

[(C) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking.

[(D) EXCEPTIONS.—

[(i) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE FOR CRIMINAL ACTS.—Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

[(ii) COMPLIANCE WITH COURT ORDERS.—Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

[(iii) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR LEASE VIOLATIONS.—Nothing in subparagraph (A), (B), or (C) limit any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to terminate.

[(iv) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR IMMINENT THREAT.—Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

[(v) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.]

* * * * * * *

[(ee) CERTIFICATION AND CONFIDENTIALITY.—

[(1) CERTIFICATION.—

[(A) IN GENERAL.—An owner, manager, or public housing agency responding to subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the individual receives a request for such certification from the owner, manager, or public housing agency.

[(B) FAILURE TO PROVIDE CERTIFICATION.—If the individual does not provide the certification within 14 business days after the individual has received a request in writing for such certification for the owner, manager, or public housing agency, nothing in this subsection or in subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) of this section may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that commits violations of a lease. The owner, manager or public housing agency may extend the 14–day deadline at their discretion.

[(C) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

[(i) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

[(ii) producing a Federal, State, tribal, territorial, or local police or court record.

[(D) LIMITATION.—Nothing in this subsection shall be construed to require an owner, manager, or public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, or public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

[(E) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with this statute by an owner, manager or public housing agency based on the certification specified in paragraphs (1)(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by paragraph (1)(C) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manager or public housing agency, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) of this section.

[(F) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or

local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

[(2) CONFIDENTIALITY.—

[(A) IN GENERAL.—All information provided to an owner, manager, or public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager, or public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

[(i) requested or consented to by the individual in writing;

[(ii) required for use in an eviction proceeding under subsection (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), or (o)(20) of this section,; or

[(iii) otherwise required by applicable law.

[(B) NOTIFICATION.—Public housing agencies must provide notice to tenants assisted under this section of their rights under this subsection and subsections (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section, including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under this subsection and subsections (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) of this section.]

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CHAPTER 21—CIVIL RIGHTS

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Subchapter I–A—Institutionalized Persons

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SEC. 1997e. SUITS BY PRISONERS.

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(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury *or the commission of a sexual act (as defined in section 2246 of title 18, United States Code).*

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CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

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SUBCHAPTER X—FUNDING

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SEC. 3793. AUTHORIZATION OF APPROPRIATIONS.

(a)(18) There is authorized to be appropriated to carry out subchapter XII–H of this chapter [$225,000,000 for each of fiscal years 2007 through 2011] *$222,000,000 for each of fiscal years 2012 through 2016.*

(19) There is authorized to be appropriated to carry out subchapter XII–I of this chapter [$75,000,000 for each of fiscal years 2007 through 2011.] *$73,000,000 for each of fiscal years 2012 through 2016.* Funds appropriated under this paragraph shall remain available until expended.

* * * * * * *

SEC. 3796gg. PURPOSE OF PROGRAM AND GRANTS.

* * * * * * *

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this subchapter shall provide personnel, training, technical assistance, data collection and other [equipment] *resources* for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, *for the protection and safety of victims,* and specifically, for the purposes of—

(1) training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of [sexual assault, domestic violence, and dating violence] *domestic violence, dating violence, sexual assault, and stalking, including the appropriate use of nonimmigrant status under subparagraphs (T) and (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a))*;

(2) developing, training, or expanding units of law enforcement officers, judges, other court personnel, and prosecutors specifically targeting violent crimes against women, including the crimes of [sexual assault and domestic violence] *domestic violence, dating violence, sexual assault, and stalking*;

(3) developing and implementing more effective police, court, and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of [sexual assault and domestic violence] *domestic violence, dating violence, sexual assault, and stalking, as well as the appropriate treatment of victims*;

(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying, *classifying,* and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of [sexual assault and domestic violence] *domestic violence, dating violence, sexual assault, and stalking*;

(5) developing, enlarging, or strengthening victim services *and legal assistance* programs, including sexual assault, [domestic violence and dating violence programs] *domestic violence, dating violence, and stalking,* developing or improving delivery of victim services to underserved populations, providing specialized domestic violence court advocates in courts

where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of [sexual assault and domestic violence] *domestic violence, dating violence, sexual assault, and stalking*;

[(6) developing, enlarging, or strengthening programs addressing stalking;]

[(7)] *(6)* developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of [sexual assault and domestic violence] *domestic violence, dating violence, sexual assault, and stalking*;

[(8)] *(7)* supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by State funds, to coordinate the response of State law enforcement agencies, prosecutors, courts, victim services agencies, and other State agencies and departments, to violent crimes against women, including the crimes of sexual assault, domestic violence, [and dating violence] *dating violence, and stalking*;

[(9)] *(8)* training of sexual assault forensic medical personnel examiners in the collection and preservation of evidence, analysis, prevention, and providing expert testimony and treatment of trauma related to sexual assault;

[(10)] *(9)* developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of [domestic violence or sexual assault] *domestic violence, dating violence, sexual assault, or stalking,* including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals;

[(11)] *(10)* providing assistance to victims of domestic violence and sexual assault in immigration matters;

[(12)] *(11)* maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families;

[(13)] *(12)* supporting the placement of special victim assistants (to be known as "Jessica Gonzales Victim Assistants") in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities—

(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including [triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized] *the use of evidence-based indicators to assess the risk of domestic and dating violence homicide and prioritize dangerous or potentially lethal cases*;

(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order; [and]

[(14)] *(13)* [to provide] *providing* funding to law enforcement agencies, [nonprofit nongovernmental] victim services providers, and State, tribal, territorial, and local governments[,] (which funding stream shall be known as the Crystal Judson Domestic Violence Protocol Program) to promote—

(A) the development and implementation of training for local victim domestic violence service providers, and to fund victim services personnel, to be known as "Crystal Judson Victim Advocates," to provide supportive services and advocacy for victims of domestic violence committed by law enforcement personnel;

(B) the implementation of protocols within law enforcement agencies to ensure consistent and effective responses to the commission of domestic violence by personnel within such agencies (such as the model policy promulgated by the International Association of Chiefs of Police ("Domestic Violence by Police Officers: A Policy of the IACP, Police Response to Violence Against Women Project" July 2003));

(C) the development of such protocols in collaboration with State, tribal, territorial and local victim service providers and domestic violence coalitions.

Any law enforcement, State, tribal, territorial, or local government agency receiving funding under the Crystal Judson Domestic Violence Protocol Program [under paragraph (14)] shall on an annual basis, receive additional training on the topic of incidents of domestic violence committed by law enforcement personnel from domestic violence and sexual assault nonprofit organizations and, after a period of 2 years, provide a report of the adopted protocol to the Department of Justice, including a summary of progress in implementing such protocol[.]*;*

(14) developing and promoting State, local, or tribal legislation and policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking;

(15) developing, implementing, or enhancing Sexual Assault Response Teams, or other similar coordinated community responses to sexual assault;

(16) developing and strengthening policies, protocols, best practices, and training for law enforcement agencies and prosecutors relating to the investigation and prosecution of sexual assault cases and the appropriate treatment of victims;

(17) developing, enlarging, or strengthening programs addressing sexual assault against men, women, and youth in correctional and detention settings;

(18) identifying and conducting inventories of backlogs of sexual assault evidence collection kits and developing protocols and policies for responding to and addressing such backlogs, including protocols and policies for notifying and involving victims;

(19) developing, enlarging, or strengthening programs and projects to provide services and responses targeting male and female victims of domestic violence, dating violence, sexual assault, or stalking, whose ability to access traditional services and responses is affected by their sexual orientation or gender identity, as defined in section 249(c) of title 18, United States Code; and

(20) developing, enhancing, or strengthening prevention and educational programming to address domestic violence, dating violence, sexual assault, or stalking, with not more than 5 percent of the amount allocated to a State to be used for this purpose.

* * * * * * *

[(d) TRIBAL COALITION GRANTS.—

[(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

[(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

[(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

[(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

[(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

[(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

[(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

[(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this chapter to carry out the purposes described in subsection (b) of this section.]

(d) TRIBAL COALITION GRANTS.—

(1) PURPOSE.—The Attorney General shall award a grant to tribal coalitions for purposes of—

(A) increasing awareness of domestic violence and sexual assault against Indian women;

(B) enhancing the response to violence against Indian women at the Federal, State, and tribal levels;

(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence, including sex trafficking; and

(D) assisting Indian tribes in developing and promoting State, local, and tribal legislation and policies that enhance best practices for responding to violent crimes against Indian women, including the crimes of domestic violence, dating violence, sexual assault, sex trafficking, and stalking.

(2) GRANTS.—The Attorney General shall award grants on an annual basis under paragraph (1) to—

(A) each tribal coalition that—

(i) meets the criteria of a tribal coalition under section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a));

(ii) is recognized by the Office on Violence Against Women; and

(iii) provides services to Indian tribes; and

(B) organizations that propose to incorporate and operate a tribal coalition in areas where Indian tribes are located but no tribal coalition exists.

(3) USE OF AMOUNTS.—For each of fiscal years 2012 through 2016, of the amounts appropriated to carry out this subsection—

(A) not more than 10 percent shall be made available to organizations described in paragraph (2)(B), provided that 1 or more organizations determined by the Attorney General to be qualified apply; and

(B) not less than 90 percent shall be made available to tribal coalitions described in paragraph (2)(A), which amounts shall be distributed equally among each eligible tribal coalition for the applicable fiscal year.

(4) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by a tribal coalition shall not preclude the tribal coalition from receiving additional grants under this title to carry out the purposes described in paragraph (1).

(5) MULTIPLE PURPOSE APPLICATIONS.—Nothing in this subsection prohibits any tribal coalition or organization described in paragraph (2) from applying for funding to address sexual assault or domestic violence needs in the same application.

* * * * * * *

SEC. 3796gg–1. STATE GRANTS.

(a) GENERAL GRANTS.—The Attorney General may make grants to States, for use by States, State and local courts (including juvenile courts), units of local government, [nonprofit nongovernmental victim services programs] *victim service providers,* and Indian tribal governments for the purposes described in section 3796gg(b) of this title.

(b) AMOUNTS.—Of the amounts appropriated for the purposes of this subchapter—

(1) 10 percent shall be available for grants under the program authorized by section 3796gg–10 of this title, which shall

not otherwise be subject to the requirements of this subchapter (other than section 3796gg–2 of this title);

(2) 2.5 percent shall be available for grants for State domestic violence coalitions under section 3796gg(c) of this title, with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, the coalition for Guam, the coalition for American Samoa, the coalition for the United States Virgin Islands, and the coalition for the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56 of the total amount made available under this paragraph for each fiscal year;

(3) 2.5 percent shall be available for grants for State sexual assault coalitions under section 3796gg(c) of this title, with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56 of the total amount made available under this paragraph for each fiscal year;

(4) 1/56 shall be available for grants under section 3796gg(d) of this title;

(5) $600,000 shall be available for grants to applicants in each State; and

(6) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States ❚(not including populations of Indian tribes)❚.

(c) QUALIFICATION.—Upon satisfying the terms of subsection (d) of this section, any State shall be qualified for funds provided under this subchapter upon certification that—

(1) the funds shall be used for any of the purposes described in section 3796gg(b) of this title;

❚(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs and describe how the State will address the needs of underserved populations;❚

(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with—

(A) the State sexual assault coalition;

(B) the State domestic violence coalition;

(C) the law enforcement entities within the State;

(D) prosecution offices;

(E) State and local courts;

(F) Tribal governments in those States with State or federally recognized Indian tribes;

(G) representatives from underserved populations, including culturally specific populations;

(H) victim service providers;

(I) population specific organizations; and

(J) other entities that the State or the Attorney General identifies as needed for the planning process;

(3) grantees shall coordinate the State implementation plan described in paragraph (2) with the State plans described in section 307 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) and the programs described in section 1404 of the Victims of Crime Act of 1984 (42 U.S.C. 10603) and section 393A of the Public Health Service Act (42 U.S.C. 280b–1b).

[(3)**]** *(4)* of the amount granted—

(A) not less than 25 percent shall be allocated for law enforcement **[**and not less than 25 percent shall be allocated for prosecutors**]***;*

(B) not less than 25 percent shall be allocated for prosecutors;

[(B)**]** *(C)* not less than 30 percent shall be allocated for victims services of which at least 10 percent shall be distributed to culturally specific community-based organizations; and

[(C)**]** *(D)* not less than 5 percent shall be allocated **[**for**]** *to* State and local courts (including juvenile courts); and

[(4) any Federal funds received under this subchapter shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this chapter.**]**

(5) not later than 2 years after the date of enactment of this Act, and every year thereafter, not less than 20 percent of the total amount granted to a State under this subchapter shall be allocated for programs or projects in 2 or more allocations listed in paragraph (4) that meaningfully address sexual assault, including stranger rape, acquaintance rape, alcohol or drug-facilitated rape, and rape within the context of an intimate partner relationship.

[(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 3763 of this title shall apply to grants made under this subchapter. In addition, each application shall include the certifications of qualification required by subsection (c) of this section, including documentation from nonprofit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2) of this section. An application shall include—

[(1) documentation from the prosecution, law enforcement, court, and victim services programs to be assisted, demonstrating—

[(A) need for the grant funds;

[(B) intended use of the grant funds;

[(C) expected results from the use of grant funds; and

[(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background;

[(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 3796gg–4 of this title; and

[(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 3796gg–5 of this title; and

[(4) documentation showing that tribal, territorial, State or local prosecution, law enforcement, and courts have consulted with tribal, territorial, State, or local victim service programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.]

(d) APPLICATION REQUIREMENTS.—An application for a grant under this section shall include—

(1) the certifications of qualification required under subsection (c);

(2) proof of compliance with the requirements for the payment of forensic medical exams and judicial notification, described in section 2010;

(3) proof of compliance with the requirements for paying fees and costs relating to domestic violence and protection order cases, described in section 2011 of this title;

(4) proof of compliance with the requirements prohibiting polygraph examinations of victims of sexual assault, described in section 2013 of this title;

(5) an implementation plan required under subsection (i); and

(6) any other documentation that the Attorney General may require.

(e) DISBURSEMENT.—

(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this subchapter, the Attorney General shall—

(A) disburse the appropriate sums provided for under this subchapter; or

(B) inform the applicant why the application does not conform to the terms of section 3763 of this title or to the requirements of this section.

(2) REGULATIONS.—In disbursing monies under this subchapter, the Attorney General shall issue regulations to ensure that States will—

(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing [domestic violence and sexual assault programs] *domestic violence, dating violence, sexual assault, and stalking* in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

(B) determine the amount of subgrants based on the population and geographic area to be served;

(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

(D) recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund [linguistically and] culturally specific services and

activities for underserved populations are distributed equitably among those populations.

(3) CONDITIONS.—In disbursing grants under this part, the Attorney General may impose reasonable conditions on grant awards to ensure that the States meet statutory, regulatory, and other program requirements.

(f) FEDERAL SHARE.—The Federal share of a grant made under this subchapter may not exceed 75 percent of the total costs of the projects described in the application submitted[.], *except that, for purposes of this subsection, the costs of the projects for victim services or tribes for which there is an exemption under section 40002(b)(1) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(1)) shall not count toward the total costs of the projects.*

(g) INDIAN TRIBES.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this subchapter.

(h) GRANTEE REPORTING.—

(1) IN GENERAL.—Upon completion of the grant period under this subchapter, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this subchapter.

(2) CERTIFICATION BY GRANTEE AND SUBGRANTEES.—A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

(3) SUSPENSION OF FUNDING.—The Attorney General shall suspend funding for an approved application if—

(A) an applicant fails to submit an annual performance report;

(B) funds are expended for purposes other than those described in this subchapter; or

(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

(i) IMPLEMENTATION PLANS.—A State applying for a grant under this part shall—

(1) develop an implementation plan in consultation with the entities listed in subsection (c)(2), that identifies how the State will use the funds awarded under this part, including how the State will meet the requirements of subsection (c)(5); and

(2) submit to the Attorney General—

(A) the implementation plan developed under paragraph (1);

(B) documentation from each member of the planning committee as to their participation in the planning process;

(C) documentation from the prosecution, law enforcement, court, and victim services programs to be assisted, describing—

(i) the need for the grant funds;

(ii) the intended use of the grant funds;

(iii) the expected result of the grant funds; and

(iv) the demographic characteristics of the populations to be served, including age, disability, race, ethnicity, and language background;

(D) a description of how the State will ensure that any subgrantees will consult with victim service providers during the course of developing their grant applications in order to ensure that the proposed activities are designed to promote the safety, confidentiality, and economic independence of victims;

(E) demographic data on the distribution of underserved populations within the State and a description of how the State will meet the needs of underserved populations, including the minimum allocation for population specific services required under subsection (c)(4)(C);

(F) a description of how the State plans to meet the regulations issued pursuant to subsection (e)(2);

(G) goals and objectives for reducing domestic violence-related homicides within the State; and

(H) any other information requested by the Attorney General.

(j) REALLOCATION OF FUNDS.—A State may use any returned or remaining funds for any authorized purpose under this part if—

(1) funds from a subgrant awarded under this part are returned to the State; or

(2) the State does not receive sufficient eligible applications to award the full funding within the allocations in subsection (c)(4)

* * * * * * *

SEC. 3796gg–4. RAPE EXAM PAYMENTS.

(a) RESTRICTION OF FUNDS.—

[(1) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subchapter unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) of this section for victims of sexual assault.]

(1) IN GENERAL.—A State, Indian tribal government, or unit of local government shall not be entitled to funds under this subchapter unless the State, Indian tribal government, unit of local government, or another governmental entity—

(A) incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault; and

(B) coordinates with health care providers in the region to notify victims of sexual assault of the availability of rape exams at no cost to the victims.

(2) REDISTRIBUTION.—Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1)

shall be distributed to other Indian tribal governments pro rata.

(b) MEDICAL COSTS.—A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity—

(1) provides such exams to victims free of charge to the victim; *or*

(2) arranges for victims to obtain such exams free of charge to the victims[; or].

[(3) reimburses victims for the cost of such exams if—

[(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

[(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

[(C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

[(D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.]

(c) USE OF FUNDS.— A State or Indian tribal government may use Federal grant funds under this subchapter to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State, Indian tribal government, or territorial government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

[(d) RULE OF CONSTRUCTION.—

[(1) IN GENERAL.—in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.

[(2) COMPLIANCE PERIOD.—States, territories, and Indian tribal governments shall have 3 years from January 5, 2006 to come into compliance with this subsection.]

(d) NONCOOPERATION.—

(1) IN GENERAL.—To be in compliance with this section, a State, Indian tribal government, or unit of local government shall comply with subsection (b) without regard to whether the victim participates in the criminal justice system or cooperates with law enforcement.

(2) COMPLIANCE PERIOD.—States, territories, and Indian tribal governments shall have 3 years from the date of enactment of this Act to come into compliance with this section.

* * * * * * *

SEC. 3796gg–5. COSTS FOR CRIMINAL CHARGES AND PROTECTION ORDERS.

(a) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this subchapter unless the State, Indian tribal government, or unit of local government—

(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, *dating violence, sexual assault, or stalking,* or in connection with the filing, issuance, registration, *modification, enforcement, dismissal, withdrawal* or service of a protection order, or a petition for a protection order, to protect a [victim of domestic violence, stalking, or sexual assault] *victim of domestic violence, dating violence, sexual assault, or stalking*, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, *modification, enforcement, dismissal, withdrawal* or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or

(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of—

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years after October 28, 2000.

(b) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) of this section shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.

(c) DEFINITION.—In this section, the term "protection order" has the meaning given the term in section 2266 of Title 18.

* * * * * * *

SEC. 3796gg–6. LEGAL ASSISTANCE FOR VICTIMS.

(a) IN GENERAL.—The purpose of this section is to enable the Attorney General to award grants to increase the availability of civil and criminal legal assistance necessary to provide effective aid to adult and youth victims of domestic violence, dating violence, stalking, or sexual assault who are seeking relief in legal matters [arising as a consequence of] *relating to or arising out of* that abuse or violence, at minimal or no cost to the victims. Criminal legal assistance provided for under this section shall be limited to criminal matters relating to or *arising out of* domestic violence, sexual assault, dating violence, and stalking.

(b) DEFINITIONS AND GRANT CONDITIONS.—In this section, the definitions *and grant conditions* provided in section 13925 of this title.

(c) LEGAL ASSISTANCE FOR VICTIMS GRANTS.—The Attorney General may award grants under this subsection to private nonprofit entities, Indian tribal governments and tribal organizations, territorial organizations and publicly funded organizations not acting in

a governmental capacity such as law schools, and which shall be used—

(1) to implement, expand, and establish cooperative efforts and projects between domestic violence, dating violence, and sexual assault [victim services organizations] *victim service providers* and legal assistance providers to provide legal assistance for victims of domestic violence, dating violence, stalking, and sexual assault;

(2) to implement, expand, and establish efforts and projects to provide legal assistance for victims of domestic violence, dating violence, stalking, and sexual assault by organizations with a demonstrated history of providing direct legal or advocacy services on behalf of these victims; and

[(3) to provide training, technical assistance, and data collection to improve the capacity of grantees and other entities to offer legal assistance to victims of domestic violence, dating violence, stalking, and sexual assault.]

(3) to implement, expand, and establish efforts and projects to provide competent, supervised pro bono legal assistance for victims of domestic violence, dating violence, sexual assault, or stalking, except that not more than 10 percent of the funds awarded under this section may be used for the purpose described in this paragraph.

(d) ELIGIBILITY.—To be eligible for a grant under subsection (c) of this section, applicants shall certify in writing that—

(1) any person providing legal assistance through a program funded under subsection (c) of [this section has completed or will complete training in connection with domestic violence, dating violence, or sexual assault and related legal issues;] *this section—*

(A) has demonstrated expertise in providing legal assistance to victims of domestic violence, dating violence, sexual assault, or stalking in the targeted population; or

(B)(i) is partnered with an entity or person that has demonstrated expertise described in subparagraph (A); and

(ii) has completed, or will complete, training in connection with domestic violence, dating violence, stalking, or sexual assault and related legal issues, including training on evidence-based risk factors for domestic and dating violence homicide;

(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault or [stalking organization] *stalking victim service provider* or coalition, as well as appropriate tribal, State, territorial, and local law enforcement officials;

(3) any person or organization providing legal assistance through a program funded under subsection (c) of this section has informed and will continue to inform State, local, or tribal domestic violence, dating violence, or sexual assault programs and coalitions, as well as appropriate State and local law enforcement officials of their work; and

(4) the grantee's organizational policies do not require mediation or counseling involving offenders and victims physically together, in cases where sexual assault, domestic violence, dating violence, or child sexual abuse is an issue.

(e) EVALUATION.—The Attorney General may evaluate the grants funded under this section through contracts or other arrangements with entities expert on domestic violence, dating violence, stalking, and sexual assault, and on evaluation research.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out [this section $65,000,000 for each of fiscal years 2007 through 2011.] *this section $57,000,000 for each of fiscal years 2012 through 2016.*

(2) ALLOCATION OF FUNDS.—

(A) TRIBAL PROGRAMS.—Of the amount made available under this subsection in each fiscal year, not less than 3 percent shall be used for grants for programs that assist adult and youth victims of domestic violence, dating violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe.

(B) TRIBAL GOVERNMENT PROGRAM.—

(i) IN GENERAL.—Not less than 7 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 3796gg–10 of this title.

(ii) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in clause (i).

(C) VICTIMS OF SEXUAL ASSAULT.—Of the amount made available under this subsection in each fiscal year, not less than 25 percent shall be used for direct services, training, and technical assistance to support projects focused solely or primarily on providing legal assistance to victims of sexual assault.

(3) NONSUPPLANTATION.—Amounts made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to further the purpose of this section.

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SEC. 3796gg–7. EDUCATION, TRAINING, AND ENHANCED SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to eligible entities—

(1) to provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

(2) to enhance direct services to such individuals.

(b) USE OF FUNDS.—Grants awarded under this section shall be used—

(1) to provide personnel, training, technical assistance, advocacy, intervention, risk reduction *(including using evidence-based indicators to assess the risk of domestic and dating violence homicide)* and prevention of domestic violence, dating violence, stalking, and sexual assault against disabled individuals;

(2) to conduct outreach activities to ensure that disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault receive appropriate assistance;

(3) to conduct cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving individuals with disabilities about risk reduction, intervention, prevention and the nature of domestic violence, dating violence, stalking, and sexual assault for disabled individuals;

(4) to provide technical assistance to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities of [victim service organizations] *victim service providers* for disabled individuals;

(5) to provide training and technical assistance on the requirements of shelters and [victim services organizations] *victim service providers* under Federal antidiscrimination laws, including—

(A) the Americans with Disabilities Act of 1990; and

(B) section 794 of Title 29;

(6) to modify facilities, purchase equipment, and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled individuals;

(7) to provide advocacy and intervention services for disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault; or

(8) to develop model programs providing advocacy and intervention services within organizations serving disabled individuals who are victims of domestic violence, dating violence, sexual assault, or stalking.

(c) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity shall be eligible to receive a grant under this section if the entity is—

(A) a State;

(B) a unit of local government;

(C) an Indian tribal government or tribal organization; or

(D) a [nonprofit and nongovernmental victim services organization, such as a State] *victim service provider, such as a State or tribal* domestic violence or sexual assault coalition or a nonprofit, nongovernmental organization serving disabled individuals.

(2) LIMITATION.—A grant awarded for the purpose described in subsection (b)(8) of this section shall only be awarded to an eligible agency (as defined in section 796f–5 of Title 29).

(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall ensure that the needs of underserved populations are being addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated [$10,000,000 for each of the fiscal years 2007 through 2011] *$9,000,000 for each of fiscal years 2012 through 2016* to carry out this section.

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SEC. 3796gg–10. GRANTS TO INDIAN TRIBAL GOVERNMENTS.

(a) GRANTS.— The Attorney General may make grants to Indian tribal governments or authorized designees of Indian tribal governments to—

(1) develop and enhance effective governmental strategies to curtail violent crimes against and increase the safety of Indian women consistent with tribal law and custom;

(2) increase tribal capacity to respond to domestic violence, dating violence, sexual assault, *sex trafficking,* and stalking crimes against Indian women;

(3) strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities;

(4) enhance services to Indian women victimized by domestic violence, dating violence, sexual assault, *sex trafficking, and stalking*;

(5) work in cooperation with the community to develop education and prevention strategies directed toward issues of domestic violence, dating violence, [and stalking programs and to address the needs of children exposed to domestic violence;] *sexual assault, sex trafficking, and stalking;*

(6) provide programs for supervised visitation and safe visitation exchange of children in situations involving domestic violence, sexual assault, or stalking committed by one parent against the other with appropriate security measures, policies, and procedures to protect the safety of victims and their children;

(7) provide transitional housing for victims of domestic violence, dating violence, sexual assault, *sex trafficking*, or stalking, including rental or utilities payments assistance and assistance with related expenses such as security deposits and other costs incidental to relocation to transitional housing, and support services to enable a victim of domestic violence, dating violence, sexual assault, *sex trafficking*, or stalking to locate and secure permanent housing and integrate into a community; [and]

(8) provide legal assistance necessary to provide effective aid to victims of domestic violence, dating violence, stalking, *sex trafficking*, or sexual assault who are seeking relief in legal matters arising as a consequence of that abuse or violence, at minimal or no cost to the victims[.]*;*

(9) provide services to address the needs of youth and children who are victims of domestic violence, dating violence, sexual assault, sex trafficking, or stalking and the needs of youth and children exposed to domestic violence, dating violence, sexual assault, or stalking, including support for the nonabusing parent or the caretaker of the youth or child; and

(10) develop and promote legislation and policies that enhance best practices for responding to violent crimes against Indian women, including the crimes of domestic violence, dating violence, sexual assault, sex trafficking, and stalking.

(b) COLLABORATION.—All applicants under this section shall demonstrate their proposal was developed in consultation with a nonprofit, nongovernmental Indian victim services program, including sexual assault and domestic violence victim services providers in the tribal or local community, or a nonprofit tribal domestic violence and sexual assault coalition to the extent that they exist. In the absence of such a demonstration, the applicant may meet the requirement of this subsection through consultation with women in the community to be served.

Note.

Pub. L. 109–162, Title IX, § 904(a), Jan. 5, 2006, 119 Stat. 3078, provided that:

(a) NATIONAL BASELINE STUDY.—

(1) IN GENERAL.—**[**The National**]** *Not later than 2 years after the date of enactment of the Violence Against Women Reauthorization Act of 2011, the National* Institute of Justice, in consultation with the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women in Indian country *and in Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).*

(2) SCOPE.—

(A) IN GENERAL.—The study shall examine violence committed against Indian women, including—

(i) domestic violence;

(ii) dating violence;

(iii) sexual assault;

(iv) stalking; **[**and**]**

(v) murder**[**.**]***; and*

(vi) sex trafficking.

(B) EVALUATION.—The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in subparagraph (A) committed against Indian women.

(C) RECOMMENDATIONS.—The study shall propose recommendations to improve the effectiveness of Federal, State, tribal, and local responses to the violation described in subparagraph (A) committed against Indian women.

(3) TASK FORCE.—

(A) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under paragraph (1) and guide implementation of the recommendation in paragraph (2)(C).

(B) MEMBERS.—The Director shall appoint to the task force representatives from—

(i) national tribal domestic violence and sexual assault nonprofit organizations;

(ii) tribal governments; and

(iii) the national tribal organizations.

(4) REPORT.—Not later than 2 years after the date of enactment of [this Act] *the Violence Against Women Reauthorization Act of 2011*, the Attorney General shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the study.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out [this section $1,000,000 for each of fiscal years 2007 and 2008] *this subsection $1,000,000 for each of fiscal years 2012 and 2013*, to remain available until expended."

* * * * * * *

SEC. 3796hh. GRANTS.

(A) PURPOSE.—The purpose of this subchapter is to encourage States, Indian tribal governments, State and local courts (including juvenile courts), tribal courts, and units of local government to treat domestic violence, dating violence, sexual assault, and stalking as serious violations of criminal law.

(b) GRANT AUTHORITY.—The Attorney General may make grants to eligible [States, Indian tribal governments State, tribal, territorial, and local courts (including juvenile courts),, or units of local government] *grantees* for the following purposes:

(1) To implement proarrest programs and policies in police departments, including policies for protection order violations *and enforcement of protection orders across State and tribal lines.*

(2) To develop policies, educational programs, protection order registries, [and training in police departments to improve tracking of cases involving domestic violence] *data collection systems, and training in police departments to improve tracking of cases and classification of complaints*, dating violence, sexual assault, and stalking. Policies, educational programs, protection order registries, and training described in this paragraph shall incorporate confidentiality, and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking.

(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence, dating violence, sexual assault, and stalking cases in teams or units of police officers, prosecutors, parole and probation officers, or judges.

(4) To coordinate computer tracking systems *and provide the appropriate training and education about domestic violence, dating violence, sexual assault, and stalking* to ensure communication between police, prosecutors, parole and probation officers, and both criminal and family courts.

(5) To strengthen legal advocacy service programs *and other victim services* for victims of domestic violence, dating violence, sexual assault, and stalking, including strengthening assistance to such victims in immigration matters.

(6) To educate [judges] *Federal, State, tribal, territorial, and local judges, courts, and court-based and court-related personnel* in criminal and civil courts (including juvenile courts) about domestic violence, dating violence, sexual assault, and stalking and to improve judicial handling of such cases.

(7) To provide technical assistance and computer and other equipment to police departments, prosecutors, courts, and tribal jurisdictions to facilitate the widespread enforcement of protection orders, including interstate enforcement, enforcement between States and tribal jurisdictions, and enforcement between tribal jurisdictions.

(8) To develop or strengthen policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of domestic violence [and sexual assault] *dating violence, sexual assault, and stalking* against older individuals (as defined in section 3002 of this title) and individuals with disabilities (as defined in section 12102(2) of this title).

(9) To develop State, tribal, territorial, or local policies, procedures, and protocols for preventing dual arrests and prosecutions in cases of domestic violence, dating violence, sexual assault, and stalking, and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

(10) To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from [non-profit, non-governmental victim services organizations,] *victim service providers, staff from population specific organizations,* law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to improve safety, access to services, and confidentiality for victims and families. Although funds may be used to support the colocation of project partners under this paragraph, funds may not support construction or major renovation expenses or activities that fall outside of the scope of the other statutory purpose areas.

(11) To develop and implement policies and training for police, prosecutors, probation and parole officers, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.

(12) To develop, enhance, and maintain protection order registries.

(13) To develop human immunodeficiency virus (HIV) testing programs for sexual assault perpetrators and notification and counseling protocols.

(14) To develop and implement training programs for prosecutors and other prosecution-related personnel regarding best practices to ensure offender accountability, victim safety, and

victim consultation in cases involving domestic violence, dating violence, sexual assault, and stalking.

(15) To develop or strengthen policies, protocols, and training for law enforcement, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of domestic violence, dating violence, sexual assault, and stalking against immigrant victims, including the appropriate use of applications for nonimmigrant status under subparagraphs (T) and (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(16) To develop and promote State, local, or tribal legislation and policies that enhance best practices for responding to the crimes of domestic violence, dating violence, sexual assault, and stalking, including the appropriate treatment of victims.

(17) To develop, implement, or enhance sexual assault nurse examiner programs or sexual assault forensic examiner programs, including the hiring and training of such examiners.

(18) To develop, implement, or enhance Sexual Assault Response Teams or similar coordinated community responses to sexual assault.

(19) To develop and strengthen policies, protocols, and training for law enforcement officers and prosecutors regarding the investigation and prosecution of sexual assault cases and the appropriate treatment of victims.

(20) To provide human immunodeficiency virus testing programs, counseling, and prophylaxis for victims of sexual assault.

(21) To identify and inventory backlogs of sexual assault evidence collection kits and to develop protocols for responding to and addressing such backlogs, including policies and protocols for notifying and involving victims.

(22) To develop multidisciplinary high-risk teams focusing on reducing domestic violence and dating violence homicides by—

(A) using evidence-based indicators to assess the risk of homicide and link high-risk victims to immediate crisis intervention services;

(B) identifying and managing high-risk offenders; and

(C) providing ongoing victim advocacy and referrals to comprehensive services including legal, housing, health care, and economic assistance.

(c) ELIGIBILITY.—Eligible [grantees are States] *grantees are—*

(1) States, Indian tribal governments State and local courts (including juvenile courts),[,] or units of local government that—

[(1)] *(A) except for a court,* certify that their laws or official policies—

[(A)] *(i)* encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

[(B)] *(ii)* encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

[(2)] *(B) except for a court,* demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

[(3)] *(C)* certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both [spouses] *parties* file a claim and the court makes detailed findings of fact indicating that both [spouses] *parties* acted primarily as aggressors and that neither [spouse] *party* acted primarily in self-defense;

[(4)] *(D)* certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence, *dating violence, sexual assault, or stalking* offense, or in connection with the filing, issuance, registration, *modification, enforcement, dismissal,* or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, *dating violence,* stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, *modification, enforcement, dismissal,* or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; [and]

[(5)] *(E)* certify that[, not later than 3 years after January, 5, 2006], their laws, policies, or practices will ensure that—

[(A)] *(i)* no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of, *trial of, or sentencing for* such an offense; and

[(B)] *(ii)* the refusal of a victim to submit to an examination described in [subparagraph (A)] *clause (i)* shall not prevent the investigation of, *trial of, or sentencing for* the offense[.]*; and*

(2) a State, tribal, or territorial domestic violence or sexual assault coalition or a victim service provider that partners with a State, Indian tribal government, or unit of local government that certifies that the State, Indian tribal government, or unit of local government meets the requirements under paragraph (1).

(d) SPEEDY NOTICE TO VICTIMS.— A State or unit of local government shall not be entitled to 5 percent of the funds allocated under this part unless the State or unit of local government—

(1) certifies that it has a law, *policy*, or regulation that requires—

(A) the State or unit of local government at the request of a victim to administer to a defendant, against whom an information or indictment is presented for a crime in

which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented *and the defendant is in custody or has been served with the information or indictment*;

(B) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and

(C) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available in accordance with subparagraph (B); or

(2) gives the Attorney General assurances that [it] *its* laws and regulations will be in compliance with requirements of paragraph (1) within the later of—

(A) the period ending on the date on which the next session of the State legislature ends; or

(B) 2 years.

(e) ALLOTMENT FOR INDIAN TRIBES.—

(1) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 3796gg–10 of this title.

(2) APPLICABILITY OF SUBCHAPTER.—The requirements of this subchapter shall not apply to funds allocated for the program described in paragraph (1).

(f) ALLOCATION FOR TRIBAL COALITIONS.—Of the amounts appropriated for purposes of this part for each fiscal year, not less than 5 percent shall be available for grants under section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg).

(g) ALLOCATION FOR SEXUAL ASSAULT.—Of the amounts appropriated for purposes of this part for each fiscal year, not less than 25 percent shall be available for projects that address sexual assault, including stranger rape, acquaintance rape, alcohol or drug-facilitated rape, and rape within the context of an intimate partner relationship.

* * * * * * *

SEC. 3796hh–1. APPLICATIONS.

(a) APPLICATION.—An eligible grantee shall submit an application to the Attorney General that—

(1) contains a certification by the chief executive officer of the State, Indian tribal government, *court* or local government entity that the conditions of section 3796hh(c) of this title are met or will be met within the later of—

(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

(B) 2 years of September 13, 1994 or, in the case of the condition set forth in subsection 3796hh(c)(4) of this title, the expiration of the 2-year period beginning on October 28, 2000;

(2) describes plans to further the purposes stated in section 3796hh(a) of this title;

(3) identifies the agency or office or groups of agencies or offices responsible for carrying out the program; and

(4) includes documentation from [nonprofit, private sexual assault and domestic violence programs] *victim service providers and, as appropriate, population specific organizations* demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

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CHAPTER 110—FAMILY VIOLENCE PREVENTION AND SERVICES

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[SEC. 10420. SAFE HAVENS FOR CHILDREN.

[(a) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, may award grants to States, units of local government, and Indian tribal governments that propose to enter into or expand the scope of existing contracts and cooperative agreements with public or private nonprofit entities

[(1) to provide supervised visitation and safe visitation exchange of children by and between parents in situations involving domestic violence, dating violence, child abuse, sexual assault, or stalking;

[(2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges;

[(3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation exchanges; and

[(4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges.

[(b) CONSIDERATIONS.—In awarding grants under subsection (a), the Attorney General shall take into account—

[(1) the number of families to be served by the proposed visitation programs and services;

[(2) the extent to which the proposed supervised visitation programs and services serve underserved populations (as defined in section 3796gg-2 of this title);

[(3) with respect to an applicant for a contract or cooperative agreement, the extent to which the applicant demonstrates cooperation and collaboration with nonprofit, nongovernmental entities in the local community served, including the State or tribal domestic violence coalition, State or tribal sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims; and

[(4) the extent to which the applicant demonstrates coordination and collaboration with State and local court systems, including mechanisms for communication and referral.

[(c) APPLICANT REQUIREMENTS.—The Attorney General shall award grants for contracts and cooperative agreements to applicants that—

[(1) demonstrate expertise in the area of family violence, including the areas of domestic violence or sexual assault, as appropriate;

[(2) ensure that any fees charged to individuals for use of programs and services are based on the income of those individuals, unless otherwise provided by court order;

[(3) demonstrate that adequate security measures, including adequate facilities, procedures, and personnel capable of preventing violence, are in place for the operation of supervised visitation programs and services or safe visitation exchange; and

[(4) prescribe standards by which the supervised visitation or safe visitation exchange will occur.

[(d) REPORTING.—

[(1) IN GENERAL.—Not later than 1 month after the end of each even-numbered fiscal year, the Attorney General shall submit to Congress a report that includes information concerning—

[(A) the number of—

[(i) individuals served and the number of individuals turned away from visitation programs and services and safe visitation exchange (categorized by State);

[(ii) the number of individuals from underserved populations served and turned away from services; and

[(iii) the type of problems that underlie the need for supervised visitation or safe visitation exchange, such as domestic violence, child abuse, sexual assault, other physical abuse, or a combination of such factors;

[(B) the numbers of supervised visitations or safe visitation exchanges ordered under this section during custody determinations under a separation or divorce decree or protection order, through child protection services or other social services agencies, or by any other order of a civil, criminal, juvenile, or family court;

[(C) the process by which children or abused partners are protected during visitations, temporary custody transfers, and other activities for which supervised visitation is established under this section;

[(D) safety and security problems occurring during the reporting period during supervised visitation under this section, including the number of parental abduction cases; and

[(E) the number of parental abduction cases in a judicial district using supervised visitation programs and services under this section, both as identified in criminal prosecution and custody violations.

[(2) GUIDELINES.—The Attorney General shall establish guidelines for the collection and reporting of data under this subsection.

[(e) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 2007 through 2011. Funds appropriated under this section shall remain available until expended.

[(2) USE OF FUNDS.—Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

[(A) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section; and

[(B) set aside not more than 8 percent for technical assistance and training to be provided by organizations having nationally recognized expertise in the design of safe and secure supervised visitation programs and visitation exchange of children in situations involving domestic violence, dating violence, sexual assault, or stalking.

[(C) Redesignated (B)

[(f) ALLOTMENT FOR INDIAN TRIBES.—

[(1) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 3796gg–10 of this title.

[(2) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in paragraph (1).]

SEC. 10420. GRANTS TO SUPPORT FAMILIES IN THE JUSTICE SYSTEM.

(a) IN GENERAL.—The Attorney General may make grants to States, units of local government, courts (including juvenile courts), Indian tribal governments, nonprofit organizations, legal services providers, and victim services providers to improve the response of all aspects of the civil and criminal justice system to families with a history of domestic violence, dating violence, sexual assault, or stalking, or in cases involving allegations of child sexual abuse.

(b) USE OF FUNDS.—A grant under this section may be used to—

(1) provide supervised visitation and safe visitation exchange of children and youth by and between parents in situations involving domestic violence, dating violence, child sexual abuse, sexual assault, or stalking;

(2) develop and promote State, local, and tribal legislation, policies, and best practices for improving civil and criminal court functions, responses, practices, and procedures in cases involving a history of domestic violence or sexual assault, or in cases involving allegations of child sexual abuse, including cases in which the victim proceeds pro se;

(3) educate court-based and court-related personnel and court-appointed personnel (including custody evaluators and guardians ad litem) and child protective services workers on the dynamics of domestic violence, dating violence, sexual assault, and stalking, including information on perpetrator behavior, evidence-based risk factors for domestic and dating violence homicide, and on issues relating to the needs of victims, includ-

ing safety, security, privacy, and confidentiality, including cases in which the victim proceeds pro se;

(4) provide appropriate resources in juvenile court matters to respond to dating violence, domestic violence, sexual assault (including child sexual abuse), and stalking and ensure necessary services dealing with the health and mental health of victims are available;

(5) enable courts or court-based or court-related programs to develop or enhance—

(A) court infrastructure (such as specialized courts, consolidated courts, dockets, intake centers, or interpreter services);

(B) community-based initiatives within the court system (such as court watch programs, victim assistance, pro se victim assistance programs, or community-based supplementary services);

(C) offender management, monitoring, and accountability programs;

(D) safe and confidential information-storage and information-sharing databases within and between court systems;

(E) education and outreach programs to improve community access, including enhanced access for underserved populations; and

(F) other projects likely to improve court responses to domestic violence, dating violence, sexual assault, and stalking;

(6) provide civil legal assistance and advocacy services, including legal information and resources in cases in which the victim proceeds pro se, to—

(A) victims of domestic violence; and

(B) nonoffending parents in matters—

(i) that involve allegations of child sexual abuse;

(ii) that relate to family matters, including civil protection orders, custody, and divorce; and

(iii) in which the other parent is represented by counsel;

(7) collect data and provide training and technical assistance, including developing State, local, and tribal model codes and policies, to improve the capacity of grantees and communities to address the civil justice needs of victims of domestic violence, dating violence, sexual assault, and stalking who have legal representation, who are proceeding pro se, or who are proceeding with the assistance of a legal advocate; and

(8) to improve training and education to assist judges, judicial personnel, attorneys, child welfare personnel, and legal advocates in the civil justice system.

(c) CONSIDERATIONS.—

(1) IN GENERAL.—In making grants for purposes described in paragraphs (1) through (7) of subsection (b), the Attorney General shall consider—

(A) the number of families to be served by the proposed programs and services;

(B) the extent to which the proposed programs and services serve underserved populations;

(C) the extent to which the applicant demonstrates cooperation and collaboration with nonprofit, nongovernmental entities in the local community with demonstrated histories of effective work on domestic violence, dating violence, sexual assault, or stalking, including State or tribal domestic violence coalitions, State or tribal sexual assault coalitions, local shelters, and programs for domestic violence and sexual assault victims; and

(D) the extent to which the applicant demonstrates coordination and collaboration with State, tribal, and local court systems, including mechanisms for communication and referral.

(2) OTHER GRANTS.—In making grants under subsection (b)(8) the Attorney General shall take into account the extent to which the grantee has expertise addressing the judicial system's handling of family violence, child custody, child abuse and neglect, adoption, foster care, supervised visitation, divorce, and parentage.

(d) APPLICANT REQUIREMENTS.—The Attorney General may make a grant under this section to an applicant that—

(1) demonstrates expertise in the areas of domestic violence, dating violence, sexual assault, stalking, or child sexual abuse, as appropriate;

(2) ensures that any fees charged to individuals for use of supervised visitation programs and services are based on the income of those individuals, unless otherwise provided by court order;

(3) for a court-based program, certifies that victims of domestic violence, dating violence, sexual assault, or stalking are not charged fees or any other costs related to the filing, petitioning, modifying, issuance, registration, enforcement, withdrawal, or dismissal of matters relating to the domestic violence, dating violence, sexual assault, or stalking;

(4) demonstrates that adequate security measures, including adequate facilities, procedures, and personnel capable of preventing violence, and adequate standards are, or will be, in place (including the development of protocols or policies to ensure that confidential information is not shared with courts, law enforcement agencies, or child welfare agencies unless necessary to ensure the safety of any child or adult using the services of a program funded under this section), if the applicant proposes to operate supervised visitation programs and services or safe visitation exchange;

(5) certifies that the organizational policies of the applicant do not require mediation or counseling involving offenders and victims being physically present in the same place, in cases where domestic violence, dating violence, sexual assault, or stalking is alleged;

(6) certifies that any person providing legal assistance through a program funded under this section has completed or will complete training on domestic violence, dating violence,

sexual assault, and stalking, including child sexual abuse, and related legal issues; and

(7) certifies that any person providing custody evaluation or guardian ad litem services through a program funded under this section has completed or will complete training developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault, or stalking victim service provider or coalition on the dynamics of domestic violence and sexual assault, including child sexual abuse, that includes training on how to review evidence of past abuse and the use of evidenced-based theories to make recommendations on custody and visitation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $22,000,000 for each of fiscal years 2012 through 2016. Amounts appropriated pursuant to this subsection shall remain available until expended.

(f) ALLOTMENT FOR INDIAN TRIBES.—

(1) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 3796gg–10 of this title.

(2) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in paragraph (1).

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CHAPTER 132—VICTIMS OF CHILD ABUSE

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Subchapter II—Court-Appointed Special Advocate Program

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SEC. 13012. PURPOSE.

The purpose of this subchapter is to ensure that by [January 1, 2010] *January 1, 2015*, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

* * * * * * *

SEC. 13013. STRENGTHENING OF COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants to initiate, sustain, and expand the court-appointed special advocate program.

(b) GRANTEE ORGANIZATIONS.—

(1) An organization to which a grant is made pursuant to subsection (a) of this section—

(A) shall be a national organization that has broad membership among court-appointed special advocates and has demonstrated experience in grant administration of court-appointed special advocate programs and in providing training and technical assistance to court-appointed special advocate program; or

(B) may be a local public or not-for-profit agency that has demonstrated the willingness to initiate, sustain, and expand court-appointed special advocate program.

(2) An organization described in paragraph (1)(A) that receives a grant may be authorized to make subgrants and enter into contracts with public and not-for-profit agencies to initiate, sustain, and expand the court-appointed special advocate program. Should a grant be made to a national organization for this purpose, the Administrator shall specify an amount not exceeding 5 percent that can be used for administrative purposes by the national organization.

(c) GRANT CRITERIA.—

(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section, consistent with sections 5673 and 5676 of this title.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association. Such criteria may include the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come

into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

(d) BACKGROUND CHECKS.—State and local Court Appointed Special Advocate programs are authorized to request fingerprint-based criminal background checks from the Federal Bureau of Investigation's criminal history database for prospective volunteers. The requesting program is responsible for the reasonable costs associated with the Federal records check.

(e) REPORTING.—An organization that receives a grant under this section for a fiscal year shall submit to the Administrator a report regarding the use of the grant for the fiscal year, including a discussion of outcome performance measures (which shall be established by the Administrator) to determine the effectiveness of the programs of the organization in meeting the needs of children in the child welfare system.

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SEC. 13014. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this subchapter $12,000,000 for each of ❚fiscal years 2007 through 2011❚ *fiscal years 2012 through 2016*.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subchapter unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(c) PROHIBITION ON LOBBYING.—No funds authorized under this subchapter may be used for lobbying activities in contravention of OMB Circular No. A–122.

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Subchapter III—Child Abuse Training Programs for Judicial Personnel and Practitioners

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SEC. 13024. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this subchapter ❚$2,300,000 for each of fiscal years 2001 through 2005.❚ *$2,300,000 for each of fiscal years 2012 through 2016.*

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a) of this section, not less than 80 percent shall be used for grants under section 13023(b) of this title.

(c) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subchapter unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

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CHAPTER 136—VIOLENT CRIME AND LAW ENFORCEMENT

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Subchapter III—Violence Against Women

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SEC. 13925. DEFINITIONS AND GRANT PROVISIONS.

(a) DEFINITIONS.—In this title:

(1) ALASKA NATIVE VILLAGE.—The term "Alaska Native village" has the same meaning given such term in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)

[(1)**]** *(2)* COURTS.—The term "courts" means any civil or criminal, tribal, and Alaska Native Village, Federal, State, local or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other person with decisionmaking authority.

[(2)**]** *(3)* CHILD ABUSE AND NEGLECT.—The term "child abuse and neglect" means any recent act or failure to act on the part of a parent or caregiver with intent to cause death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of **[**serious harm**]** *serious harm to an unemancipated minor.* This definition shall not be construed to mean that failure to leave an abusive relationship, in the absence of other action constituting abuse or neglect, is itself abuse or neglect.

[(3)**]** *(4)* COMMUNITY-BASED ORGANIZATION.—**[**The term "community-based organization" means an organization that—**]***The term "community-based organization" means a nonprofit, nongovernmental, or tribal organization that serves a specific geographic community that—*

(A) focuses primarily on domestic violence, dating violence, sexual assault, or stalking;

(B) has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;

(C) has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence, sexual assault, or stalking; or

(D) obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration.

[(4)] *(5)* CHILD MALTREATMENT.—The term "child maltreatment" means the physical or psychological abuse or neglect of a child or youth, including sexual assault and abuse.

(6) CULTURALLY SPECIFIC SERVICES.—The term "culturally specific services" means community-based services that include culturally relevant and linguistically specific services and resources to culturally specific communities.

(7) CULTURALLY SPECIFIC.—The term "culturally specific" means primarily directed toward racial and ethnic minority groups (as defined in section 1707(g) of the Public Health Service Act (42 U.S.C. 300u–6(g)).

[(5) COURT-BASED AND COURT-RELATED PERSONNEL.—The term "court-based" and "court-related personnel" mean persons working in the court, whether paid or volunteer, including—

[(A) clerks, special masters, domestic relations officers, administrators, mediators, custody evaluators, guardians ad litem, lawyers, negotiators, probation, parole, interpreters, victim assistants, victim advocates, and judicial, administrative, or any other professionals or personnel similarly involved in the legal process;

[(B) court security personnel;

[(C) personnel working in related, supplementary offices or programs (such as child support enforcement); and

[(D) any other court-based or community-based personnel having responsibilities or authority to address domestic violence, dating violence, sexual assault, or stalking in the court system.]

[(6)] *(8)* DOMESTIC VIOLENCE.—The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse *or intimate partner* of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse *or intimate partner,* by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

[(7)] *(9)* DATING PARTNER.—The term "dating partner" refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and where the existence of such a relationship shall be determined based on a consideration of—

(A) the length of the relationship;

(B) the type of relationship; and

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

[(8)] *(10)* DATING VIOLENCE.—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 the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

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

[(9)**]** *(11)* ELDER ABUSE.—The term "elder abuse" means any action against a person who is 50 years of age or older that constitutes the willful—

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

(B) deprivation by a person, including a caregiver, of goods or services with intent to cause physical harm, mental anguish, or mental illness.

(12) HOMELESS.—The term "homeless" has the meaning provided in 42 U.S.C. 14043e–2(6).

[(10)**]** *(13)* INDIAN.—The term "Indian" means a member of an Indian tribe.

[(11)**]** *(14)* INDIAN COUNTRY.—The term "Indian country" has the same meaning given such term in section 1151 of Title 18.

[(12)**]** *(15)* INDIAN HOUSING.—The term "Indian housing" means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq., as amended).

[(13)**]** *(16)* INDIAN TRIBE.—The term "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[(14)**]** *(17)* INDIAN LAW ENFORCEMENT.—The term "Indian law enforcement" means the departments or individuals under the direction of the Indian tribe that maintain public order.

[(15)**]** *(18)* LAW ENFORCEMENT.—The term "law enforcement" means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs or Village Public Safety Officers), including those referred to in section 2802 of Title 25.

[(16)**]** *(19)* LEGAL ASSISTANCE.—The term "legal assistance" includes assistance to adult and youth victims of domestic violence, dating violence, sexual assault, and stalking in—

(A) family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay away order proceedings, and other similar matters; and

(B) criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy;

Intake or referral, by itself, does not constitute legal assistance.

[(17) LINGUISTICALLY AND CULTURALLY SPECIFIC SERVICES.—The term "linguistically and culturally specific services" means community-based services that offer full linguistic access and culturally specific services and resources, including outreach,

collaboration, and support mechanisms primarily directed toward underserved communities.

[(18) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term "personally identifying information" or "personal information" means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

[(A) a first and last name;

[(B) a home or other physical address;

[(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

[(D) a social security number; and

[(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.]

(20) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term "personally identifying information" or "personal information" means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including—

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number, driver license number, passport number, or student identification number; and

(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

(21) POPULATION SPECIFIC ORGANIZATION.—The term "population specific organization" means a nonprofit, nongovernmental organization that primarily serves members of a specific underserved population and has demonstrated experience and expertise providing targeted services to members of that specific underserved population.

(22) POPULATION SPECIFIC SERVICES.—The term "population specific services" means victim-centered services that address the safety, health, economic, legal, housing, workplace, immigration, confidentiality, or other needs of victims of domestic violence, dating violence, sexual assault, or stalking, and that are designed primarily for and are targeted to a specific underserved population.

[(19)] *(23)* PROSECUTION.—The term "prosecution" means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim [services] *assistance* programs).

[(20)] *(24)* PROTECTION ORDER OR RESTRAINING ORDER.—The term "protection order" or "restraining order" includes—

(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(B) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

(25) RAPE CRISIS CENTER.—The term "rape crisis center" means a nonprofit, nongovernmental, or tribal organization, or governmental entity in a State other than a Territory that provides intervention and related assistance, as specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault without regard to their age. In the case of a governmental entity, the entity may not be part of the criminal justice system (such as a law enforcement agency) and must be able to offer a comparable level of confidentiality as a nonprofit entity that provides similar victim services.

[(21)] *(26)* RURAL AREA AND RURAL COMMUNITY.—The term "rural area" and "rural community" mean—

(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; [or]

(B) any area or community, respectively, that is—

(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

(ii) located in a rural census tract[.]*; or*

(C) any federally recognized Indian tribe.

[(22)] *(27)* RURAL STATE.—The term "rural State" means a State that has a population density of [52] 57 or fewer persons per square mile or a State in which the largest county has fewer than [150,000] 250,000 people, based on the most recent decennial census.

[(23)] *(28)* SEXUAL ASSAULT.—The term "sexual assault" means any conduct proscribed by chapter 109A of Title 18, 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 or related by blood or marriage to the victim.

(29) SEX TRAFFICKING.—The term "sex trafficking" means any conduct proscribed by 18 U.S.C. 1591, whether or not the conduct occurs in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States.

[(24)**]** *(30)* STALKING.—The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

[(25)**]** *(31)* STATE.—The term "State" means each of the several States and the District of Columbia, and except as otherwise provided, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

[(26)**]** *(32)* STATE DOMESTIC VIOLENCE COALITION.—The term "State domestic violence coalition" means a program determined by the Administration for Children and Families under sections 10402 and 10411 of this title.

[(27)**]** *(33)* STATE SEXUAL ASSAULT COALITION.—The term "State sexual assault coalition" means a program determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

[(28)**]** *(34)* TERRITORIAL DOMESTIC VIOLENCE OR SEXUAL ASSAULT COALITION.—The term "territorial domestic violence or sexual assault coalition" means a program addressing domestic or sexual violence that is—

(A) an established nonprofit, nongovernmental territorial coalition addressing domestic violence or sexual assault within the territory; or

(B) a nongovernmental organization with a demonstrated history of addressing domestic violence or sexual assault within the territory that proposes to incorporate as a nonprofit, nongovernmental territorial coalition.

[(29) TRIBAL COALITION.—The term "tribal coalition" means—

[(A) an established nonprofit, nongovernmental tribal coalition addressing domestic violence and sexual assault against American Indian or Alaskan Native women; or

[(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian or Alaska Native women.**]**

(35) TRIBAL COALITION.—The term "tribal coalition" means an established nonprofit, nongovernmental Indian organization or a Native Hawaiian organization that—

(A) provides education, support, and technical assistance to member Indian service providers in a manner that enables those member providers to establish and maintain culturally appropriate services, including shelter and rape crisis services, designed to assist Indian women and the dependents of those women who are victims of domestic violence, dating violence, sexual assault, and stalking; and

(B) is comprised of board and general members that are representative of—

(i) the member service providers described in subparagraph (A); and

(ii) the tribal communities in which the services are being provided;

[(30)] *(36)* TRIBAL GOVERNMENT.—The term "tribal government" means—

(A) the governing body of an Indian tribe; or

(B) a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[(31)] *(37)* TRIBAL NONPROFIT ORGANIZATION.—The term "tribal nonprofit organization" means—

(A) a victim services provider that has as its primary purpose to assist Native victims of domestic violence, dating violence, sexual assault, or stalking; and

(B) staff and leadership of the organization must include persons with a demonstrated history of assisting American Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, or stalking.

[(32)] *(38)* TRIBAL ORGANIZATION.—The term "tribal organization" means—

(A) the governing body of any Indian tribe;

(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body of a tribe or tribes to be served, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; or

(C) any tribal nonprofit organization.

[(33) UNDERSERVED POPULATIONS.—The term "underserved populations" includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of Health and Human Services, as appropriate.]

(39) UNDERSERVED POPULATIONS.—The term "underserved populations" means populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attor-

ney General or by the Secretary of Health and Human Services, as appropriate.

(40) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State.

(41) VICTIM SERVICES OR SERVICES.—The terms "victim services" and "services" means services provided to victims of domestic violence, dating violence, sexual assault, or stalking, including telephonic or web-based hotlines, legal advocacy, economic advocacy, emergency and transitional shelter, accompaniment and advocacy through medical, civil or criminal justice, immigration, and social support systems, crisis intervention, short-term individual and group support services, information and referrals, culturally specific services, population specific services, and other related supportive services.

(42) VICTIM SERVICE PROVIDER.—The term "victim service provider" means a nonprofit, nongovernmental or tribal organization or rape crisis center, including a State or tribal coalition, that assists or advocates for domestic violence, dating violence, sexual assault, or stalking victims, including domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

[(34) VICTIM ADVOCATE.—The term "victim advocate" means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a victim services program.**]**

(43) YOUTH.—The term "youth" means a person who is 11 to 24 years old.

[(35)**]** *(44)* VICTIM ASSISTANT.—The term "victim assistant" means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

[(36) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term "victim services" or "victim service provider" means a nonprofit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.**]**

[(37)**]** *(45)* YOUTH.—The term "youth" means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

(b) GRANT CONDITIONS.—

(1) MATCH.—No matching funds shall be required for any grant or subgrant made under this Act for—

(A) any tribe, territory, or victim service provider; or

(B) any other entity, including a State, that—

(i) petitions for a waiver of any match condition imposed by the Attorney General or the Secretaries of

Health and Human Services or Housing and Urban Development; and

(ii) whose petition for waiver is determined by the Attorney General or the Secretaries of Health and Human Services or Housing and Urban Development to have adequately demonstrated the financial need of the petitioning entity.

(2) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

(A) IN GENERAL.—In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

(B) NONDISCLOSURE.—Subject to subparagraphs (C) and (D), grantees and subgrantees shall not—

[(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

[(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.**]**

(i) disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected; or

(ii) disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of legal incapacity, a court-appointed guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor.

If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may release information without additional consent.

(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate—

(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

[(D) INFORMATION SHARING.—Grantees and subgrantees may share—

[(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

[(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

[(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.]

(D) INFORMATION SHARING.—

(i) Grantees and subgrantees may share—

(I) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

(II) court-generated information and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes; and

(III) law enforcement-generated and prosecution-generated information necessary for law enforcement and prosecution purposes.

(ii) In no circumstances may—

(I) an adult, youth, or child victim of domestic violence, dating violence, sexual assault, or stalking be required to provide a consent to release his or her personally identifying information as a condition of eligibility for the services provided by the grantee or subgrantee;

(II) any personally identifying information be shared in order to comply with Federal, tribal, or State reporting, evaluation, or data collection requirements, whether for this program or any other Federal, tribal, or State grant program.

(E) STATUTORILY MANDATED REPORTS OF ABUSE OR NEGLECT.—Nothing in this section prohibits a grantee or subgrantee from reporting suspected abuse or neglect, as those terms are defined and specifically mandated by the State or tribe involved.

[(E)] *(F)* OVERSIGHT.—Nothing in this paragraph shall prevent the Attorney General from disclosing grant activi-

ties authorized in this Act to the chairman and ranking members of the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate exercising Congressional oversight authority. All disclosures shall protect confidentiality and omit personally identifying information, including location information about individuals.

(G) CONFIDENTIALITY ASSESSMENT AND ASSURANCES.—Grantees and subgrantees must document their compliance with the confidentiality and privacy provisions required under this section.

[(3) APPROVED ACTIVITIES.—In carrying out the activities under this title, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.]

(3) APPROVED ACTIVITIES.—In carrying out the activities under this title, grantees and subgrantees may collaborate with or provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies and develop and promote State, local, or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

(4) NON-SUPPLANTATION.—Any Federal funds received under this title shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities under this title.

(5) USE OF FUNDS.—Funds authorized and appropriated under this title may be used only for the specific purposes described in this title and shall remain available until expended.

(6) REPORTS.—An entity receiving a grant under this title shall submit to the disbursing agency a report detailing the activities undertaken with the grant funds, including and providing additional information as the agency shall require.

(7) EVALUATION.—Federal agencies disbursing funds under this title shall set aside up to 3 percent of such funds in order to conduct—

(A) evaluations of specific programs or projects funded by the disbursing agency under this title or related research; or

(B) evaluations of promising practices or problems emerging in the field or related research, in order to inform the agency or agencies as to which programs or projects are likely to be effective or responsive to needs in the field.

Final reports of such evaluations shall be made available to the public via the agency's website.

(8) NONEXCLUSIVITY.—Nothing in this title shall be construed to prohibit male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title.

(9) PROHIBITION ON TORT LITIGATION.—Funds appropriated for the grant program under this title may not be used to fund

civil representation in a lawsuit based on a tort claim. This paragraph should not be construed as a prohibition on providing assistance to obtain restitution in a protection order or criminal case.

(10) PROHIBITION ON LOBBYING.—Any funds appropriated for the grant program shall be subject to the prohibition in section 1913 of Title 18, relating to lobbying with appropriated moneys.

(11) TECHNICAL ASSISTANCE.—Of the total amounts appropriated under this title, not less than 3 percent and up to 8 percent, unless otherwise noted, shall be available for providing training and technical assistance relating to the purposes of this title to improve the capacity of the grantees, subgrantees, and other entities. If there is a demonstrated history that the Office on Violence Against Women has previously set aside amounts greater than 8 percent for technical assistance and training relating to grant programs authorized under this title, the Office has the authority to continue setting aside amounts greater than 8 percent.

(12) DELIVERY OF LEGAL ASSISTANCE.—Any grantee or subgrantee providing legal assistance with funds awarded under this title shall comply with the eligibility requirements in section 1201(d) of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6(d)).

(13) CIVIL RIGHTS.—

(A) NONDISCRIMINATION.—No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902), the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (title IX of Public Law 109–162; 119 Stat. 3080), the Violence Against Women Reauthorization Act of 2011, and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.

(B) EXCEPTION.—If sex segregation or sex-specific programming is necessary to the essential operation of a program, nothing in this paragraph shall prevent any such program or activity from consideration of an individual's sex. In such circumstances, grantees may meet the requirements of this paragraph by providing comparable services to individuals who cannot be provided with the sex-segregated or sex-specific programming.

(C) DISCRIMINATION.—The authority of the Attorney General and the Office of Justice Programs to enforce this

paragraph shall be the same as it is under section 3789d of title 42, United States Code.

(D) CONSTRUCTION.—Nothing contained in this paragraph shall be construed, interpreted, or applied to supplant, displace, preempt, or otherwise diminish the responsibilities and liabilities under other State or Federal civil rights law, whether statutory or common.

(14) CLARIFICATION OF VICTIM SERVICES AND LEGAL ASSISTANCE.—Victim services and legal assistance under this title also include services and assistance to victims of domestic violence, dating violence, sexual assault, or stalking who are also victims of severe forms of trafficking in persons as defined by section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(15) CONFERRAL.—

(A) IN GENERAL.—The Office on Violence Against Women shall establish a biennial conferral process with State and tribal coalitions and technical assistance providers who receive funding through grants administered by the Office on Violence Against Women and authorized by this Act, and other key stakeholders.

(B) AREAS COVERED.—The areas of conferral under this paragraph shall include—

(i) the administration of grants;

(ii) unmet needs;

(iii) promising practices in the field; and

(iv) emerging trends.

(C) INITIAL CONFERRAL.—The first conferral shall be initiated not later than 6 months after the date of enactment of the Violence Against Women Reauthorization Act of 2011.

(D) REPORT.—Not later than 90 days after the conclusion of each conferral period, the Office on Violence Against Women shall publish a comprehensive report that—

(i) summarizes the issues presented during conferral and what, if any, policies it intends to implement to address those issues;

(ii) is made available to the public on the Office on Violence Against Women's website and submitted to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(16) ACCOUNTABILITY.—All grants awarded by the Attorney General under this Act shall be subject to the following accountability provisions:

(A) AUDIT REQUIREMENT.—

(i) IN GENERAL.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, and in each fiscal year thereafter, the Inspector General of the Department of Justice shall conduct audits of recipients of grants under this Act to prevent waste, fraud, and abuse of funds by grantees. The Inspector General shall determine the appropriate number of grantees to be audited each year.

(ii) DEFINITION.—In this paragraph, the term "unresolved audit finding" means a finding in the final audit report of the Inspector General of the Department of Justice that the audited grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 12 months from the date when the final audit report is issued.

(iii) MANDATORY EXCLUSION.—A recipient of grant funds under this Act that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this Act during the following 2 fiscal years.

(iv) PRIORITY.—In awarding grants under this Act, the Attorney General shall give priority to eligible entities that did not have an unresolved audit finding during the 3 fiscal years prior to submitting an application for a grant under this Act.

(v) REIMBURSEMENT.—If an entity is awarded grant funds under this Act during the 2-fiscal-year period in which the entity is barred from receiving grants under paragraph (2), the Attorney General shall—

(I) deposit an amount equal to the grant funds that were improperly awarded to the grantee into the General Fund of the Treasury; and

(II) seek to recoup the costs of the repayment to the fund from the grant recipient that was erroneously awarded grant funds.

(B) NONPROFIT ORGANIZATION REQUIREMENTS.—

(i) DEFINITION.—For purposes of this paragraph and the grant programs described in this Act, the term "nonprofit organization" means an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(ii) PROHIBITION.—The Attorney General may not award a grant under any grant program described in this Act to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of the Internal Revenue Code of 1986.

(iii) DISCLOSURE.—Each nonprofit organization that is awarded a grant under a grant program described in this Act and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees and key employees, shall disclose to the Attorney General, in the application for the grant, the process for determining such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the Attorney General

shall make the information disclosed under this subsection available for public inspection.

(C) CONFERENCE EXPENDITURES.—

(i) LIMITATION.—No amounts authorized to be appropriated to the Department of Justice under this Act may be used by the Attorney General, or by any individual or organization awarded discretionary funds through a cooperative agreement under this Act, to host or support any expenditure for conferences that uses more than $20,000 in Department funds, unless the Deputy Attorney General or such Assistant Attorney Generals, Directors, or principal deputies as the Deputy Attorney General may designate, provides prior written authorization that the funds may be expended to host a conference.

(ii) WRITTEN APPROVAL.—Written approval under clause (i) shall include a written estimate of all costs associated with the conference, including the cost of all food and beverages, audiovisual equipment, honoraria for speakers, and any entertainment.

(iii) REPORT.—The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on all approved conference expenditures referenced in this paragraph.

(D) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date of the enactment of this Act, the Attorney General shall submit, to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives, an annual certification that—

(i) all audits issued by the Office of the Inspector General under paragraph (1) have been completed and reviewed by the appropriate Assistant Attorney General or Director;

(ii) all mandatory exclusions required under subparagraph (A)(iii) have been issued;

(iii) all reimbursements required under subparagraph (A)(v) have been made; and

(iv) includes a list of any grant recipients excluded under subparagraph (A) from the previous year.

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[PART I—VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS]

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PART A—SAFE STREETS FOR WOMEN

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Subpart 2—Assistance to Victims of Sexual Assault

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SEC. 13941. TRAINING PROGRAMS.

(a) IN GENERAL.—The Attorney General, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Attorney General shall ensure, to the extent practicable, that training programs developed under subsection (a) of this section are available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section **[**$5,000,000 for each of fiscal years 2007 through 2011.**]** *$5,000,000 for each of fiscal years 2012 through 2016.*

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PART B—SAFE HOMES FOR WOMEN

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Subpart 3—Rural Domestic Violence and Child Abuse Enforcement

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SEC. 13971. RURAL DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) PURPOSES.—The purposes of this section are—

(1) to identify, assess, and appropriately respond to child, youth, and adult victims of domestic violence, sexual assault, dating violence, and stalking in rural communities, by encouraging collaboration among—

(A) domestic violence, dating violence, sexual assault, and stalking victim service providers;

(B) law enforcement agencies;

(C) prosecutors;

(D) courts;

(E) other criminal justice service providers;

(F) human and community service providers;

(G) educational institutions; and

(H) health care providers*, including sexual assault forensic examiners*;

(2) to establish and expand nonprofit, nongovernmental, State, tribal, territorial, and local government victim services in rural communities to child, youth, and adult victims; and

(3) to increase the safety and well-being of women and children in rural communities, by—

(A) dealing directly and immediately with domestic violence, sexual assault, dating violence, and stalking occurring in rural communities; and

(B) creating and implementing strategies to increase awareness and prevent domestic violence, sexual assault, dating violence, and stalking.

(b) GRANTS AUTHORIZED.—The Attorney General, acting through the Director of the Office on Violence Against Women (referred to in this section as the "Director"), may award grants to States, Indian tribes, local governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities that address domestic violence, dating violence, sexual assault, and stalking by—

(1) implementing, expanding, and establishing cooperative efforts and projects among law enforcement officers, prosecutors, [victim advocacy groups] *victim service providers*, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, and stalking, *including developing multidisciplinary teams focusing on high risk cases with the goal of preventing domestic and dating violence homicides;*

(2) providing treatment, counseling, advocacy, [and other long- and short-term assistance] *legal assistance, and other long-term and short-term victim and population specific services* to adult and minor victims of domestic violence, dating violence, sexual assault, and stalking in rural communities, including assistance in immigration matters; [and]

(3) working in cooperation with the community to develop education and prevention strategies directed toward such issues[.]*;*

(4) developing, enlarging, or strengthening programs addressing sexual assault, including sexual assault forensic examiner programs, Sexual Assault Response Teams, law enforcement training, and programs addressing rape kit backlogs; and

(5) developing programs and strategies that focus on the specific needs of victims of domestic violence, dating violence, sexual assault, and stalking who reside in remote rural and geographically isolated areas, including addressing the challenges posed by the lack of access to shelters and victims services, and limited law enforcement resources and training, and providing training and resources to Community Health Aides involved in the delivery of Indian Health Service programs.

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(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated [$55,000,000 for each of the fiscal years 2007 through 2011] *$50,000,000 for each of fiscal years 2012 through 2016* to carry out this section.

(2) ADDITIONAL FUNDING.—In addition to funds received through a grant under subsection (b) of this section, a law enforcement agency may use funds received through a grant

under subchapter XII–E of chapter 46 of this title to accomplish the objectives of this section.

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Subpart 3A—Research on Effective Interventions to Address Violence Against Women

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SEC. 13973. RESEARCH ON EFFECTIVE INTERVENTIONS IN A HEALTH CARE SETTING.

[(a) PURPOSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Research and Quality, shall award grants and contracts to fund research on effective interventions in the health care setting that prevent domestic violence, dating violence, and sexual assault across the lifespan and that prevent the health effects of such violence and improve the safety and health of individuals who are currently being victimized.

[(b) USE OF FUNDS.—Research conducted with amounts received under a grant or contract under this section shall include the following:

[(1) With respect to the authority of the centers for disease control and prevention—

[(A) research on the effects of domestic violence, dating violence, sexual assault, and childhood exposure to domestic, dating, or sexual violence, on health behaviors, health conditions, and the health status of individuals, families, and populations;

[(B) research and testing of best messages and strategies to mobilize public and health care provider action concerning the prevention of domestic, dating, or sexual violence; and

[(C) measure the comparative effectiveness and outcomes of efforts under this Act to reduce violence and increase women's safety.

[(2) With respect to the authority of the agency for healthcare research and quality—

[(A) research on the impact on the health care system, health care utilization, health care costs, and health status of domestic violence, dating violence, and childhood exposure to domestic and dating violence, sexual violence and stalking and childhood exposure; and

[(B) research on effective interventions within primary care and emergency health care settings and with health care settings that include clinical partnerships within community domestic violence providers for adults and children exposed to domestic or dating violence.

[(c) USE OF DATA.—Research funded under this section shall be utilized by eligible entities under section 280g–4 of this title.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2007 through 2011.

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Subpart 4—Transitional Housing Assistance Grants for [Child Victims of Domestic Violence, Stalking, or Sexual Assault] *Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*

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SEC. 13975. TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR [CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT] *VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING*

(a) IN GENERAL.—The Attorney General, acting in consultation with the Director of the Violence Against Women Office of the Department of Justice, the Department of Housing and Urban Development, and the Department of Health and Human Services, shall award grants under this section to States, units of local government, Indian tribes, and other organizations, including domestic violence and sexual assault victim service providers, domestic violence and sexual assault coalitions, other nonprofit, nongovernmental organizations, or community-based and culturally specific organizations, that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking (referred to in this section as the "recipient") to carry out programs to provide assistance to minors, adults, and their dependents—

(1) who are homeless, or in need of transitional housing or other housing assistance, as a result of [fleeing] a situation of domestic violence, dating violence, sexual assault, or stalking; and

(2) for whom emergency shelter services or other crisis intervention services are unavailable or insufficient.

(b) GRANTS.—Grants awarded under this section may be used for programs that provide—

(1) transitional housing, including funding for the operating expenses of newly developed or existing transitional housing.

(2) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses such as payment of security deposits and other costs incidental to relocation to transitional housing for persons described in subsection (a) of this section; and

(3) support services designed to enable a minor, an adult, or a dependent of such minor or adult, who is fleeing a situation of domestic violence, dating violence, sexual assault, or stalking to—

(A) locate and secure permanent housing; [and]

(B) secure employment, including obtaining employment counseling, occupational training, job retention counseling, and counseling concerning re-entry in to the workforce; and

[(B)] *(C)* integrate into a community by providing that minor, adult, or dependent with services, such as transportation, counseling, child care services, case management, [employment counseling,] and other assistance. Participation in the support services shall be voluntary. Receipt of the benefits of the housing assistance described in paragraph (2) shall not be conditioned upon the participation

of the youth, adults, or their dependents in any or all of the support services offered them.

(c) DURATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a minor, an adult, or a dependent, who receives assistance under this section shall receive that assistance for not more than 24 months.

(2) WAIVER.—The recipient of a grant under this section may waive the restriction under paragraph (1) for not more than an additional 6 month period with respect to any minor, adult, or dependent, who—

(A) has made a good-faith effort to acquire permanent housing; and

(B) has been unable to acquire permanent housing.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought;

(B) provide assurances that any supportive services offered to participants in programs developed under subsection (b)(3) of this section are voluntary and that refusal to receive such services shall not be grounds for termination from the program or eviction from the victim's housing; and

(C) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

(3) APPLICATION.—Nothing in this subsection shall be construed to require—

(A) victims to participate in the criminal justice system in order to receive services; or

(B) domestic violence advocates to breach client confidentiality.

(e) REPORT TO THE ATTORNEY GENERAL.—

(1) IN GENERAL.—A recipient of a grant under this section shall annually prepare and submit to the Attorney General a report describing—

(A) the number of minors, adults, and dependents assisted under this section; and

(B) the types of housing assistance and support services provided under this section.

(2) CONTENTS.—Each report prepared and submitted pursuant to paragraph (1) shall include information regarding—

(A) the purpose and amount of housing assistance provided to each minor, adult, or dependent, assisted under this section and the reason for that assistance;

(B) the number of months each minor, adult, or dependent, received assistance under this section;

(C) the number of minors, adults, and dependents who—

(i) were eligible to receive assistance under this section; and

(ii) were not provided with assistance under this section solely due to a lack of available housing;

(D) the type of support services provided to each minor, adult, or dependent, assisted under this section; and

(E) the client population served and the number of individuals requesting services that the transitional housing program is unable to serve as a result of a lack of resources.

(f) REPORT TO CONGRESS.—

(1) REPORTING REQUIREMENT.—The Attorney General, with the Director of the Violence Against Women Office, shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section not later than 1 month after the end of each even-numbered fiscal year.

(2) AVAILABILITY OF REPORT.—In order to coordinate efforts to assist the victims of domestic violence, the Attorney General, in coordination with the Director of the Violence Against Women Office, shall transmit a copy of the report submitted under paragraph (1) to—

(A) the Office of Community Planning and Development at the United States Department of Housing and Urban Development; and

(B) the Office of Women's Health at the United States Department of Health and Human Services.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section [$40,000,000 for each of the fiscal years 2007 through 2011] *$35,000,000 for each of fiscal years 2012 through 2016.*

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year, up to 5 percent may be used by the Attorney General for evaluation, monitoring, technical assistance, salaries and administrative expenses.

(3) MINIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), unless all [eligible] *qualified* applications submitted by any States, units of local government, Indian tribes, or organizations within a State for a grant under this section have been funded, that State, together with the grantees within the State (other than Indian tribes), shall be allocated in each fiscal year, not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

(B) EXCEPTION.—The United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to this section.

(C) UNDERSERVED POPULATIONS.—

(i) INDIAN TRIBES.—

(I) IN GENERAL.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized by section 3796gg–10 of this title.

(II) APPLICABILITY OF PART.—The requirements of this section shall not apply to funds allocated for the program described in subclause (I).

(ii) Priority shall be given to projects developed under subsection (b) of this section that primarily serve underserved populations.

(D) QUALIFIED APPLICATION DEFINED.—In this paragraph, the term "qualified application" means an application that—

(i) has been submitted by an eligible applicant;

(ii) does not propose any activities that may compromise victim safety, including—

(I) background checks of victims; or

(II) clinical evaluations to determine eligibility for services;

(iii) reflects an understanding of the dynamics of domestic violence, dating violence, sexual assault, or stalking; and

(iv) does not propose prohibited activities, including mandatory services for victims.

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PART F—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

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SEC. 14032. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this part **[**$3,000,000 for each of fiscal years 2007 through 2011.**]** *$3,000,000 for fiscal years 2012 through 2016.*

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[PART G—ELDER ABUSE, NEGLECT, AND EXPLOITATION, INCLUDING DOMESTIC VIOLENCE AND SEXUAL ASSAULT AGAINST OLDER OR DISABLED INDIVIDUALS]

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PART G—ENHANCED TRAINING AND SERVICES TO END ABUSE LATER IN LIFE

SEC. 14041. ENHANCED TRAINING AND SERVICES TO END ABUSE IN LATER LIFE.

(a) DEFINITIONS.—In this section—

(1) the term "exploitation" has the meaning given the term in section 2011 of the Social Security Act (42 U.S.C. 1397j);

(2) the term "later life", relating to an individual, means the individual is 50 years of age or older; and

(3) the term "neglect" means the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an individual in later life.

(b) GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Attorney General may make grants to eligible entities to carry out the activities described in paragraph (2).

(2) MANDATORY AND PERMISSIBLE ACTIVITIES.—

(A) MANDATORY ACTIVITIES.—An eligible entity receiving a grant under this section shall use the funds received under the grant to—

(i) provide training programs to assist law enforcement agencies, prosecutors, agencies of States or units of local government, population specific organizations, victim service providers, victim advocates, and relevant officers in Federal, tribal, State, territorial, and local courts in recognizing and addressing instances of elder abuse;

(ii) provide or enhance services for victims of abuse in later life, including domestic violence, dating violence, sexual assault, stalking, exploitation, and neglect;

(iii) establish or support multidisciplinary collaborative community responses to victims of abuse in later life, including domestic violence, dating violence, sexual assault, stalking, exploitation, and neglect; and

(iv) conduct cross-training for law enforcement agencies, prosecutors, agencies of States or units of local government, attorneys, health care providers, population specific organizations, faith-based advocates, victim service providers, and courts to better serve victims of abuse in later life, including domestic violence, dating violence, sexual assault, stalking, exploitation, and neglect.

(B) PERMISSIBLE ACTIVITIES.—An eligible entity receiving a grant under this section may use the funds received under the grant to—

(i) provide training programs to assist attorneys, health care providers, faith-based leaders, or other community-based organizations in recognizing and addressing instances of abuse in later life, including domestic violence, dating violence, sexual assault, stalking, exploitation, and neglect; or

(ii) conduct outreach activities and awareness campaigns to ensure that victims of abuse in later life, including domestic violence, dating violence, sexual assault, stalking, exploitation, and neglect receive appropriate assistance.

(C) WAIVER.—The Attorney General may waive 1 or more of the activities described in subparagraph (A) upon making a determination that the activity would duplicate services available in the community.

(D) LIMITATION.—An eligible entity receiving a grant under this section may use not more than 10 percent of the

total funds received under the grant for an activity described in subparagraph (B)(ii).

(3) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this section if—

(A) the entity is—

(i) a State;

(ii) a unit of local government;

(iii) a tribal government or tribal organization;

(iv) a population specific organization with demonstrated experience in assisting individuals over 50 years of age;

(v) a victim service provider with demonstrated experience in addressing domestic violence, dating violence, sexual assault, and stalking; or

(vi) a State, tribal, or territorial domestic violence or sexual assault coalition; and

(B) the entity demonstrates that it is part of a multidisciplinary partnership that includes, at a minimum—

(i) a law enforcement agency;

(ii) a prosecutor's office;

(iii) a victim service provider; and

(iv) a nonprofit program or government agency with demonstrated experience in assisting individuals in later life;

(4) UNDERSERVED POPULATIONS.—In making grants under this section, the Attorney General shall give priority to proposals providing services to culturally specific and underserved populations.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $9,000,000 for each of fiscal years 2012 through 2016.

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[PART K—SERVICES, EDUCATION, PROTECTION AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE]

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SEC. 14043c. CREATING HOPE THROUGH OUTREACH, OPTIONS, SERVICES, AND EDUCATION FOR CHILDREN AND YOUTH ("CHOOSE CHILDREN & YOUTH").

(a) GRANTS AUTHORIZED.—The Attorney General, working in collaboration with the Secretary of Health and Human Services and the Secretary of Education, shall award grants to enhance the safety of youth and children who are victims of, or exposed to, domestic violence, dating violence, sexual assault, or stalking and prevent future violence.

(b) PROGRAM PURPOSES.—Funds provided under this section may be used for the following program purpose areas:

(1) SERVICES TO ADVOCATE FOR AND RESPOND TO YOUTH.—To develop, expand, and strengthen victim-centered interventions and services that target youth who are victims of domestic violence, dating violence, sexual assault, and stalking. Services may include victim services, counseling, advocacy, mentoring, educational support, transportation, legal assistance in civil,

criminal and administrative matters, such as family law cases, housing cases, child welfare proceedings, campus administrative proceedings, and civil protection order proceedings, services to address the co-occurrence of sex trafficking, population-specific services, and other activities that support youth in finding safety, stability, and justice and in addressing the emotional, cognitive, and physical effects of trauma. Funds may be used to—

(A) assess and analyze currently available services for youth victims of domestic violence, dating violence, sexual assault, and stalking, determining relevant barriers to such services in a particular locality, and developing a community protocol to address such problems collaboratively;

(B) develop and implement policies, practices, and procedures to effectively respond to domestic violence, dating violence, sexual assault, or stalking against youth; or

(C) provide technical assistance and training to enhance the ability of school personnel, victim service providers, child protective service workers, staff of law enforcement agencies, prosecutors, court personnel, individuals who work in after school programs, medical personnel, social workers, mental health personnel, and workers in other programs that serve children and youth to improve their ability to appropriately respond to the needs of children and youth who are victims of domestic violence, dating violence, sexual assault, and stalking, and to properly refer such children, youth, and their families to appropriate services.

(2) SUPPORTING YOUTH THROUGH EDUCATION AND PROTECTION.—To enable middle schools, high schools, and institutions of higher education to—

(A) provide training to school personnel, including healthcare providers and security personnel, on the needs of students who are victims of domestic violence, dating violence, sexual assault, or stalking;

(B) develop and implement prevention and intervention policies in middle and high schools, including appropriate responses to, and identification and referral procedures for, students who are experiencing or perpetrating domestic violence, dating violence, sexual assault, or stalking, and procedures for handling the requirements of court protective orders issued to or against students;

(C) provide support services for student victims of domestic violence, dating violence, sexual assault or stalking, such as a resource person who is either on-site or on-call;

(D) implement developmentally appropriate educational programming for students regarding domestic violence, dating violence, sexual assault, and stalking and the impact of such violence on youth; or

(E) develop strategies to increase identification, support, referrals, and prevention programming for youth who are at high risk of domestic violence, dating violence, sexual assault, or stalking.

(c) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall be—

(A) a victim service provider, tribal nonprofit, or population-specific or community-based organization with a demonstrated history of effective work addressing the needs of youth who are, including runaway or homeless youth affected by, victims of domestic violence, dating violence, sexual assault, or stalking;

(B) a victim service provider that is partnered with an entity that has a demonstrated history of effective work addressing the needs of youth; or

(C) a public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under section 2164 of title 10, United States Code or section 1402 of the Defense Dependents' Education Act of 1978, a group of schools, a school district, or an institution of higher education.

(2) PARTNERSHIPS.—

(A) EDUCATION.—To be eligible to receive a grant for the purposes described in subsection (b)(2), an entity described in paragraph (1) shall be partnered with a public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under section 2164 of title 10, United States Code or section 1402 of the Defense Dependents' Education Act of 1978, a group of schools, a school district, or an institution of higher education.

(B) OTHER PARTNERSHIPS.—All applicants under this section are encouraged to work in partnership with organizations and agencies that work with the relevant population. Such entities may include—

(i) a State, tribe, unit of local government, or territory;

(ii) a population specific or community-based organization;

(iii) batterer intervention programs or sex offender treatment programs with specialized knowledge and experience working with youth offenders; or

(iv) any other agencies or nonprofit, nongovernmental organizations with the capacity to provide effective assistance to the adult, youth, and child victims served by the partnership.

(d) GRANTEE REQUIREMENTS.—Applicants for grants under this section shall establish and implement policies, practices, and procedures that—

(1) require and include appropriate referral systems for child and youth victims;

(2) protect the confidentiality and privacy of child and youth victim information, particularly in the context of parental or third party involvement and consent, mandatory reporting duties, and working with other service providers all with priority on victim safety and autonomy; and

(3) ensure that all individuals providing intervention or prevention programming to children or youth through a program

funded under this section have completed, or will complete, sufficient training in connection with domestic violence, dating violence, sexual assault and stalking.

(e) DEFINITIONS AND GRANT CONDITIONS.—In this section, the definitions and grant conditions provided for in section 40002 shall apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2012 through 2016.

(g) ALLOTMENT.—

(1) IN GENERAL.—Not less than 50 percent of the total amount appropriated under this section for each fiscal year shall be used for the purposes described in subsection (b)(1).

(2) INDIAN TRIBES.—Not less than 10 percent of the total amount appropriated under this section for each fiscal year shall be made available for grants under the program authorized by section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this section shall not apply to funds allocated under this paragraph.

(h) PRIORITY.—The Attorney General shall prioritize grant applications under this section that coordinate with prevention programs in the community.

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PART L—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE AGAINST WOMEN AND CHILDREN

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SEC. 14043d–2. GRANTS TO ASSIST CHILDREN AND YOUTH EXPOSED TO VIOLENCE.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, is authorized to award grants on a competitive basis to eligible entities for the purpose of mitigating the effects of domestic violence, dating violence, sexual assault, and stalking on children exposed to such violence, and reducing the risk of future victimization or perpetration of domestic violence, dating violence, sexual assault, and stalking.

[(2) TERM.—The Director shall make grants under this section for a period of 2 fiscal years.

[(3) AWARD BASIS.—The Director shall award grants—

[(A) considering the needs of underserved populations;

[(B) awarding not less than 10 percent of such amounts to Indian tribes for the funding of tribal projects from the amounts made available under this section for a fiscal year;

[(C) awarding up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year; and

[(D) awarding not less than 66 percent to programs described in subsection (c)(1) of this section from the

amounts made available under this section for a fiscal year.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2007 through 2011.

[(c) USE OF FUNDS.—The funds appropriated under this section shall be used for—

[(1) programs that provide services for children exposed to domestic violence, dating violence, sexual assault, or stalking, which may include direct counseling, advocacy, or mentoring, and must include support for the nonabusing parent or the child's caretaker; or

[(2) training, coordination, and advocacy for programs that serve children and youth (such as Head Start, child care, and after-school programs) on how to safely and confidentially identify children and families experiencing domestic violence and properly refer them to programs that can provide direct services to the family and children, and coordination with other domestic violence or other programs serving children exposed to domestic violence, dating violence, sexual assault, or stalking that can provide the training and direct services referenced in this subsection.

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

[(1) a victim service provider, tribal nonprofit organization or community-based organization that has a documented history of effective work concerning children or youth exposed to domestic violence, dating violence, sexual assault, or stalking, including programs that provide culturally specific services, Head Start, childcare, faith- based organizations, after school programs, and health and mental health providers; or

[(2) a State, territorial, or tribal, or local unit of government agency that is partnered with an organization described in paragraph (1).

[(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

[(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

[(2) at a minimum, describe in the application the policies and procedures that the entity has or will adapt to—

[(A) enhance or ensure the safety and security of children who have been or are being exposed to violence and their nonabusing parent, enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking; and

[(B) ensure linguistically, culturally, and community relevant services for underserved communities.]

SEC. 14043d–2. SAVING MONEY AND REDUCING TRAGEDIES THROUGH PREVENTION. (SMART PREVENTION).

(a) GRANTS AUTHORIZED.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Secretary of Education, is authorized to award grants for the purpose of pre-

venting domestic violence, dating violence, sexual assault, and stalking by taking a comprehensive approach that focuses on youth, children exposed to violence, and men as leaders and influencers of social norms.

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

(1) Teen dating violence awareness and prevention.—To develop, maintain, or enhance programs that change attitudes and behaviors around the acceptability of domestic violence, dating violence, sexual assault, and stalking and provide education and skills training to young individuals and individuals who influence young individuals. The prevention program may use evidence-based, evidence-informed, or innovative strategies and practices focused on youth. Such a program should include—

(A) age and developmentally-appropriate education on domestic violence, dating violence, sexual assault, stalking, and sexual coercion, as well as healthy relationship skills, in school, in the community, or in health care settings;

(B) community-based collaboration and training for those with influence on youth, such as parents, teachers, coaches, healthcare providers, faith-leaders, older teens, and mentors;

(C) education and outreach to change environmental factors contributing to domestic violence, dating violence, sexual assault, and stalking; and

(D) policy development targeted to prevention, including school-based policies and protocols.

(2) CHILDREN EXPOSED TO VIOLENCE AND ABUSE.—To develop, maintain or enhance programs designed to prevent future incidents of domestic violence, dating violence, sexual assault, and stalking by preventing, reducing and responding to children's exposure to violence in the home. Such programs may include—

(A) providing services for children exposed to domestic violence, dating violence, sexual assault or stalking, including direct counseling or advocacy, and support for the non-abusing parent; and

(B) training and coordination for educational, after-school, and childcare programs on how to safely and confidentially identify children and families experiencing domestic violence, dating violence, sexual assault, or stalking and properly refer children exposed and their families to services and violence prevention programs.

(3) ENGAGING MEN AS LEADERS AND ROLE MODELS.—To develop, maintain or enhance programs that work with men to prevent domestic violence, dating violence, sexual assault, and stalking by helping men to serve as role models and social influencers of other men and youth at the individual, school, community or statewide levels.

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

(1) a victim service provider, community-based organization, tribe or tribal organization, or other non-profit, nongovernmental organization that has a history of effective work pre-

venting domestic violence, dating violence, sexual assault, or stalking and expertise in the specific area for which they are applying for funds; or

(2) a partnership between a victim service provider, community-based organization, tribe or tribal organization, or other non-profit, nongovernmental organization that has a history of effective work preventing domestic violence, dating violence, sexual assault, or stalking and at least one of the following that has expertise in serving children exposed to domestic violence, dating violence, sexual assault, or stalking, youth domestic violence, dating violence, sexual assault, or stalking prevention, or engaging men to prevent domestic violence, dating violence, sexual assault, or stalking:

(A) A public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under section 2164 of title 10, United States Code or section 1402 of the Defense Dependents' Education Act of 1978, a group of schools, or a school district.

(B) A local community-based organization, population-specific organization, or faith-based organization that has established expertise in providing services to youth.

(C) A community-based organization, population-specific organization, university or health care clinic, faith-based organization, or other non-profit, nongovernmental organization with a demonstrated history of effective work addressing the needs of children exposed to domestic violence, dating violence, sexual assault, or stalking.

(D) A nonprofit, nongovernmental entity providing services for runaway or homeless youth affected by domestic violence, dating violence, sexual assault, or stalking.

(E) Healthcare entities eligible for reimbursement under title XVIII of the Social Security Act, including providers that target the special needs of children and youth.

(F) Any other agencies, population-specific organizations, or nonprofit, nongovernmental organizations with the capacity to provide necessary expertise to meet the goals of the program; or

(3) a public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under section 2164 of title 10, United States Code or section 1402 of the Defense Dependents' Education Act of 1978, a group of schools, a school district, or an institution of higher education.

(d) GRANTEE REQUIREMENTS.—

(1) IN GENERAL.—Applicants for grants under this section shall prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require that demonstrates the capacity of the applicant and partnering organizations to undertake the project.

(2) POLICIES AND PROCEDURES.—Applicants under this section shall establish and implement policies, practices, and procedures that—

(A) include appropriate referral systems to direct any victim identified during program activities to highly qualified follow-up care;

(B) protect the confidentiality and privacy of adult and youth victim information, particularly in the context of parental or third party involvement and consent, mandatory reporting duties, and working with other service providers;

(C) ensure that all individuals providing prevention programming through a program funded under this section have completed or will complete sufficient training in connection with domestic violence, dating violence, sexual assault or stalking; and

(D) document how prevention programs are coordinated with service programs in the community.

(3) PREFERENCE.—In selecting grant recipients under this section, the Attorney General shall give preference to applicants that—

(A) include outcome-based evaluation; and

(B) identify any other community, school, or State-based efforts that are working on domestic violence, dating violence, sexual assault, or stalking prevention and explain how the grantee or partnership will add value, coordinate with other programs, and not duplicate existing efforts.

(e) DEFINITIONS AND GRANT CONDITIONS.—In this section, the definitions and grant conditions provided for in section 40002 shall apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2012 through 2016. Amounts appropriated under this section may only be used for programs and activities described under this section.

(g) ALLOTMENT.—

(1) IN GENERAL.—Not less than 25 percent of the total amounts appropriated under this section in each fiscal year shall be used for each set of purposes described in paragraphs (1), (2), and (3) of subsection (b).

(2) INDIAN TRIBES.—Not less than 10 percent of the total amounts appropriated under this section in each fiscal year shall be made available for grants to Indian tribes or tribal organizations. If an insufficient number of applications are received from Indian tribes or tribal organizations, such funds shall be allotted to other population-specific programs.

SEC. 14043d–3. DEVELOPMENT OF CURRICULA AND PILOT PROGRAMS FOR HOME VISITATION PROJECTS.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, shall award grants on a competitive basis to home visitation programs, in collaboration with victim service providers, for the purposes of developing and implementing model policies and procedures to train home visitation service providers on addressing domestic violence, dating violence, sexual assault, and stalking in families experiencing violence, or at risk of vio-

lence, to reduce the impact of that violence on children, maintain safety, improve parenting skills, and break intergenerational cycles of violence.

[(2) TERM.—The Director shall make the grants under this section for a period of 2 fiscal years.]

[(3) AWARD BASIS.—The Director shall—

[(A) consider the needs of underserved populations;

[(B) award not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

[(C) award up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2007 through 2011.]

[(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a national, Federal, State, local, territorial, or tribal—

[(1) home visitation program that provides services to pregnant women and to young children and their parent or primary caregiver that are provided in the permanent or temporary residence or in other familiar surroundings of the individual or family receiving such services; or

[(2) victim services organization or agency in collaboration with an organization or organizations listed in paragraph (1).

[(d) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

[(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

[(2) describe in the application the policies and procedures that the entity has or will adopt to—

[(A) enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking;

[(B) ensure linguistically, culturally, and community relevant services for underserved communities;

[(C) ensure the adequate training by domestic violence, dating violence, sexual assault or stalking victim service providers of home visitation grantee program staff to—

[(i) safely screen for and/or recognize domestic violence, dating violence, sexual assault, and stalking;

[(ii) understand the impact of domestic violence or sexual assault on children and protective actions taken by a nonabusing parent or caretaker in response to violence against anyone in the household; and

[(iii) link new parents with existing community resources in communities where resources exist; and

[(D) ensure that relevant State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of

organizations receiving grants under this section, and are included as training partners, where possible.

SEC. 14043d–4. ENGAGING MEN AND YOUTH IN PREVENTING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, shall award grants on a competitive basis to eligible entities for the purpose of developing or enhancing programs related to engaging men and youth in preventing domestic violence, dating violence, sexual assault, and stalking by helping them to develop mutually respectful, nonviolent relationships.

[(2) TERM.—The Director shall make grants under this section for a period of 2 fiscal years.

[(3) AWARD BASIS.—The Director shall award grants—

[(A) considering the needs of underserved populations;

[(B) awarding not less than 10 percent of such amounts for the funding of Indian tribes from the amounts made available under this section for a fiscal year; and

[(C) awarding up to 8 percent for the funding of technical assistance for grantees and non-grantees working in this area from the amounts made available under this section for a fiscal year.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2007 through 2011.

[(c) USE OF FUNDS.—

[(1) PROGRAMS.—The funds appropriated under this section shall be used by eligible entities—

[(A) to develop or enhance community-based programs, including gender-specific programs in accordance with applicable laws that—

[(i) encourage children and youth to pursue nonviolent relationships and reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking; and

[(ii) that include at a minimum—

[(I) information on domestic violence, dating violence, sexual assault, stalking, or child sexual abuse and how they affect children and youth; and

[(II) strategies to help participants be as safe as possible; or

[(B) to create public education campaigns and community organizing to encourage men and boys to work as allies with women and girls to prevent violence against women and girls conducted by entities that have experience in conducting public education campaigns that address domestic violence, dating violence, sexual assault, or stalking.

[(2) MEDIA LIMITS.—No more than 40 percent of funds received by a grantee under this section may be used to create and distribute media materials.

[(d) ELIGIBLE ENTITIES.—

[(1) RELATIONSHIPS.—Eligible entities under subsection (c)(1)(A) of this section are—

[(A) nonprofit, nongovernmental domestic violence, dating violence, sexual assault, or stalking victim service providers or coalitions;

[(B) community-based child or youth services organizations with demonstrated experience and expertise in addressing the needs and concerns of young people;

[(C) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A) or (B); or

[(D) a program that provides culturally specific services.

[(2) AWARENESS CAMPAIGN.—Eligible entities under subsection (c)(1)(B) of this section are—

[(A) nonprofit, nongovernmental organizations or coalitions that have a documented history of creating and administering effective public education campaigns addressing the prevention of domestic violence, dating violence, sexual assault or stalking; or

[(B) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A).

[(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

[(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

[(2) eligible entities pursuant to subsection (c)(1)(A) of this section shall describe in the application the policies and procedures that the entity has or will adopt to—

[(A) enhance or ensure the safety and security of children and youth already experiencing domestic violence, dating violence, sexual assault, or stalking in their lives;

[(B) ensure linguistically, culturally, and community relevant services for underserved communities;

[(C) inform participants about laws, services, and resources in the community, and make referrals as appropriate; and

[(D) ensure that State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section.

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PART M—ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

* * * * * * *

Subpart 1—Grant Programs

* * * * * * *

SEC. 14043e–1. PURPOSE.

The purpose of this [part] subpart is to reduce domestic violence, dating violence, sexual assault, and stalking, and to prevent homelessness by—

(1) protecting the safety of victims of domestic violence, dating violence, sexual assault, and stalking who reside in homeless shelters, public housing, assisted housing, tribally designated housing, or other emergency, transitional, permanent, or affordable housing, and ensuring that such victims have meaningful access to the criminal justice system without jeopardizing such housing;

(2) creating long-term housing solutions that develop communities and provide sustainable living solutions for victims of domestic violence, dating violence, sexual assault, and stalking;

(3) building collaborations among victim service providers, homeless service providers, housing providers, and housing agencies to provide appropriate services, interventions, and training to address the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking; and

(4) enabling public and assisted housing agencies, tribally designated housing entities, private landlords, property management companies, and other housing providers and agencies to respond appropriately to domestic violence, dating violence, sexual assault, and stalking, while maintaining a safe environment for all housing residents.

* * * * * * *

For purposes of this [part] *subpart*—

(1) the term "assisted housing" means housing assisted—

(A) under sections 1715e, 1715k, 1715l(d)(3), 1715l(d)(4), 1715n(e), 1715v, or 1715z–1 of Title 12;

(B) under section 1701s of Title 12;

(C) under section 1701q of Title 12;

(D) under section 8013 of Title 42;

(E) under title II of the Cranston-Gonzales National Affordable Housing Act [42 U.S.C. 12721 et seq.];

(F) under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

(G) under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); or

(H) under section 1437f of this title;

(2) the term "continuum of care" means a community plan developed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and achieve maximum self-sufficiency;

(3) the term "low-income housing assistance voucher" means housing assistance described in section 1437f of this title;

(4) the term "public housing" means housing described in section 1437a(b)(1) of this title;

(5) the term "public housing agency" means an agency described in section 1437a(b)(6) of this title;

(6) the terms "homeless", "homeless individual", and "homeless person"—

(A) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and

(B) includes—

(i) an individual who—

(I) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

(II) is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;

(III) is living in an emergency or transitional shelter;

(IV) is abandoned in a hospital; or

(V) is awaiting foster care placement;

(ii) an individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(iii) migratory children (as defined in section 6399 of Title 20) who qualify as homeless under this section because the children are living in circumstances described in this paragraph;

(7) the term "homeless service provider" means a nonprofit, nongovernmental homeless service provider, such as a homeless shelter, a homeless service or advocacy program, a tribal organization serving homeless individuals, or coalition or other nonprofit, nongovernmental organization carrying out a community-based homeless or housing program that has a documented history of effective work concerning homelessness;

(8) the term "tribally designated housing" means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

(9) the term "tribally designated housing entity" means a housing entity described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(21));

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SEC. 14043e–3. COLLABORATIVE GRANTS TO INCREASE LONG-TERM STABILITY OF VICTIMS.

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(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated **[**$10,000,000 for each of fiscal years 2007 through 2011**]** *$4,000,000 for each of fiscal years 2012 through 2016* to carry out the provisions of this section.

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SEC. 14043e–4. GRANTS TO COMBAT VIOLENCE AGAINST WOMEN IN PUBLIC AND ASSISTED HOUSING.

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(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated **[**$10,000,000 for each of fiscal years 2007 through

2011] *$4,000,000 for each of fiscal years 2012 through 2016* to carry out the provisions of this section.

* * * * * * *

Subpart 2—Housing Rights

SEC.14043e–5. HOUSING PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

(a) DEFINITIONS.—In this chapter:

(1) AFFILIATED INDIVIDUAL.—The term "affiliated individual" means, with respect to an individual—

(A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis; or

(B) any individual, tenant, or lawful occupant living in the household of that individual.

(2) APPROPRIATE AGENCY.—The term "appropriate agency" means, with respect to a covered housing program, the Executive department (as defined in section 101 of title 5, United States Code) that carries out the covered housing program.

(3) COVERED HOUSING PROGRAM.—The term "covered housing program" means—

(A) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(B) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(C) the program under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

(D) the program under subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.);

(E) the program under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.);

(F) the program under paragraph (3) of section 221(d) of the National Housing Act (12 U.S.C. 1715l(d)) that bears interest at a rate determined under the proviso under paragraph (5) of such section 221(d);

(G) the program under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(H) the programs under sections 6 and 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f);

(I) rural housing assistance provided under sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (42 U.S.C. 1484, 1485, 1486, 1490m, and 1490p–2); and

(J) the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986.

(b) PROHIBITED BASIS FOR DENIAL OR TERMINATION OF ASSISTANCE OR EVICTION.—

(1) IN GENERAL.—An applicant for or tenant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participa-

tion in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

(2) CONSTRUCTION OF LEASE TERMS.—An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as—

(A) a serious or repeated violation of a lease for housing assisted under a covered housing program by the victim or threatened victim of such incident; or

(B) good cause for terminating the assistance, tenancy, or occupancy rights to housing assisted under a covered housing program of the victim or threatened victim of such incident.

(3) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—

(A) DENIAL OF ASSISTANCE, TENANCY, AND OCCUPANCY RIGHTS PROHIBITED.—No person may deny assistance, tenancy, or occupancy rights to housing assisted under a covered housing program to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

(B) BIFURCATION.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency or owner or manager of housing assisted under a covered housing program may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing.

(ii) EFFECT OF EVICTION ON OTHER TENANTS.—If public housing agency or owner or manager of housing assisted under a covered housing program evicts, removes, or terminates assistance to an individual under clause (i), and the individual is the sole tenant eligible to receive assistance under a covered housing program, the public housing agency or owner or manager of housing assisted under the covered housing program shall provide any remaining tenant an opportunity to establish eligibility for the covered housing program. If a tenant described in the preceding sentence cannot establish eligibility, the public housing agency or owner or manager of the housing shall provide the tenant a

reasonable time, as determined by the appropriate agency, to find new housing or to establish eligibility for housing under another covered housing program.

(C) RULES OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed—

(i) to limit the authority of a public housing agency or owner or manager of housing assisted under a covered housing program, when notified of a court order, to comply with a court order with respect to—

(I) the rights of access to or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

(II) the distribution or possession of property among members of a household in a case;

(ii) to limit any otherwise available authority of a public housing agency or owner or manager of housing assisted under a covered housing program to evict or terminate assistance to a tenant for any violation of a lease not premised on the act of violence in question against the tenant or an affiliated person of the tenant, if the public housing agency or owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate;

(iii) to limit the authority to terminate assistance to a tenant or evict a tenant from housing assisted under a covered housing program if a public housing agency or owner or manager of the housing can demonstrate that an actual and imminent threat to other tenants or individuals employed at or providing service to the property would be present if the assistance is not terminated or the tenant is not evicted; or

(iv) to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.

(c) DOCUMENTATION.—

(1) REQUEST FOR DOCUMENTATION.—If an applicant for, or tenant of, housing assisted under a covered housing program represents to a public housing agency or owner or manager of the housing that the individual is entitled to protection under subsection (b), the public housing agency or owner or manager may request, in writing, that the applicant or tenant submit to the public housing agency or owner or manager a form of documentation described in paragraph (3).

(2) FAILURE TO PROVIDE CERTIFICATION.—

(A) IN GENERAL.—If an applicant or tenant does not provide the documentation requested under paragraph (1) within 14 business days after the tenant receives a request in writing for such certification from a public housing agency or owner or manager of housing assisted under a covered housing program, nothing in this chapter may be

construed to limit the authority of the public housing agency or owner or manager to—

(i) deny admission by the applicant or tenant to the covered program;

(ii) deny assistance under the covered program to the applicant or tenant;

(iii) terminate the participation of the applicant or tenant in the covered program; or

(iv) evict the applicant, the tenant, or a lawful occupant that commits violations of a lease.

(B) EXTENSION.—A public housing agency or owner or manager of housing may extend the 14-day deadline under subparagraph (A) at its discretion.

(3) FORM OF DOCUMENTATION.—A form of documentation described in this paragraph is—

(A) a certification form approved by the appropriate agency that—

(i) states that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

(ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under subsection (b) meets the requirements under subsection (b); and

(iii) includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide;

(B) a document that—

(i) is signed by—

(I) an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom an applicant or tenant has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse; and

(II) the applicant or tenant; and

(ii) states under penalty of perjury that the individual described in clause (i)(I) believes that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under subsection (b) meets the requirements under subsection (b);

(C) a record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or

(D) at the discretion of a public housing agency or owner or manager of housing assisted under a covered housing program, a statement or other evidence provided by an applicant or tenant.

(4) CONFIDENTIALITY.—Any information submitted to a public housing agency or owner or manager under this subsection, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be main-

tained in confidence by the public housing agency or owner or manager and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is—

(A) requested or consented to by the individual in writing;

(B) required for use in an eviction proceeding under subsection (b); or

(C) otherwise required by applicable law.

(5) DOCUMENTATION NOT REQUIRED.—Nothing in this subsection shall be construed to require a public housing agency or owner or manager of housing assisted under a covered housing program to request that an individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking.

(6) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with subsection (b) by a public housing agency or owner or manager of housing assisted under a covered housing program based on documentation received under this subsection, shall not be sufficient to constitute evidence of an unreasonable act or omission by the public housing agency or owner or manager or an employee or agent of the public housing agency or owner or manager. Nothing in this paragraph shall be construed to limit the liability of a public housing agency or owner or manager of housing assisted under a covered housing program for failure to comply with subsection (b).

(7) RESPONSE TO CONFLICTING CERTIFICATION.—If a public housing agency or owner or manager of housing assisted under a covered housing program receives documentation under this subsection that contains conflicting information, the public housing agency or owner or manager may require an applicant or tenant to submit third-party documentation, as described in subparagraph (B), (C), or (D) of paragraph (3).

(8) PREEMPTION.—Nothing in this subsection shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

(d) NOTIFICATION.—

(1) DEVELOPMENT.—The Secretary of Housing and Urban Development shall develop a notice of the rights of individuals under this section, including the right to confidentiality and the limits thereof.

(2) PROVISION.—Each public housing agency or owner or manager of housing assisted under a covered housing program shall provide the notice developed under paragraph (1), together with the form described in subsection (c)(3)(A), to an applicant for or tenants of housing assisted under a covered housing program—

(A) at the time the applicant is denied residency in a dwelling unit assisted under the covered housing program;

(B) at the time the individual is admitted to a dwelling unit assisted under the covered housing program;

(C) with any notification of eviction or notification of termination of assistance; and

(D) in multiple languages, consistent with guidance issued by the Secretary of Housing and Urban Development in accordance with Executive Order 13166 (42 U.S.C. 2000d–1 note; relating to access to services for persons with limited English proficiency).

(e) EMERGENCY TRANSFERS.—Each appropriate agency shall adopt a model emergency transfer plan for use by public housing agencies and owners or managers of housing assisted under covered housing programs that—

(1) allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit assisted under a covered housing program if—

(A) the tenant expressly requests the transfer; and

(B)(i) the tenant reasonably believes that the tenant is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit assisted under a covered housing program; or

(ii) in the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90-day period preceding the request for transfer; and

(2) incorporates reasonable confidentiality measures to ensure that the public housing agency or owner or manager does not disclose the location of the dwelling unit of a tenant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

(f) POLICIES AND PROCEDURES FOR EMERGENCY TRANSFER.—The Secretary of Housing and Urban Development shall establish policies and procedures under which a victim requesting an emergency transfer under subsection (e) may receive, subject to the availability of tenant protection vouchers, assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

(g) IMPLEMENTATION.—The appropriate agency with respect to each covered housing program shall implement this section, as this section applies to the covered housing program.

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PART N—NATIONAL RESOURCE CENTER

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SEC. 14043f. GRANT FOR NATIONAL RESOURCE CENTER ON WORKPLACE RESOURCES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

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(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of **[**fiscal years 2007 through 2011**]** *fiscal years 2012 through 2016.*

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PART N–1—SEXUAL ASSAULT SERVICES

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SEC. 14043g. SEXUAL ASSAULT SERVICES PROGRAM.

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(b) GRANTS TO STATES AND TERRITORIES.—

(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States and territories to support the establishment, maintenance, and expansion of rape crisis centers and [other programs and projects to assist those victimized by sexual assault.] *other nongovernmental or tribal programs and projects to assist individuals who have been victimized by sexual assault, without regard to the age of the individual.*

(2) ALLOCATION AND USE OF FUNDS.—

(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by a State or territory governmental agency under this subsection for any fiscal year may be used for administrative costs.

(B) GRANT FUNDS.—Any funds received by a State or territory under this subsection that are not used for administrative costs shall be used to provide grants to rape crisis centers and other nonprofit, nongovernmental organizations *or tribal programs and activities* for programs and activities within such State or territory that provide direct intervention and related assistance.

(C) INTERVENTION AND RELATED ASSISTANCE.—Intervention and related assistance under subparagraph (B) may include—

(i) 24-hour hotline services providing crisis intervention services and referral;

(ii) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

(iii) crisis intervention, short-term individual and group support services, and comprehensive service coordination and supervision to assist sexual assault victims and family or household members;

(iv) information and referral to assist the sexual assault victim and family or household members;

(v) community-based, [linguistically and] culturally specific services and support mechanisms, including outreach activities for underserved communities; and

(vi) the development and distribution of materials on issues related to the services described in clauses (i) through (v).

(3) APPLICATION.—

(A) IN GENERAL.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time and in such manner as the Attorney General may reasonably require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) set forth procedures designed to ensure meaningful involvement of the State or territorial sexual assault coalition and representatives from underserved communities in the development of the application and the implementation of the plans;

(ii) set forth procedures designed to ensure an equitable distribution of grants and grant funds within the State or territory and between urban and rural areas within such State or territory;

(iii) identify the State or territorial agency that is responsible for the administration of programs and activities; and

(iv) meet other such requirements as the Attorney General reasonably determines are necessary to carry out the purposes and provisions of this section.

(4) MINIMUM AMOUNT.—The Attorney General shall allocate to each State *(including the District of Columbia and Puerto Rico)* not less than 1.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, [the District of Columbia, Puerto Rico,] and the Commonwealth of the Northern Mariana Islands shall each be allocated [0.125 percent] *0.25 percent* of the total appropriations. The remaining funds shall be allotted to each State and each territory in an amount that bears the same ratio to such remaining funds as the population of such State and such territory bears to the population of all the States and the territories. [The District of Columbia shall be treated as a territory for purposes of calculating its allocation under the preceding formula.]

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(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated [$50,000,000 to remain available until expended for each of the fiscal years 2007 through 2011] *$40,000,000 to remain available until expended for each of fiscal years 2012 through 2016* to carry out the provisions of this section.

(2) ALLOCATIONS.—Of the total amounts appropriated for each fiscal year to carry out this section—

(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring, and other administrative costs under this section;

(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and subgrantees under this section;

(C) not less than 65 percent shall be used for grants to States and territories under subsection (b) of this section;

(D) not less than 10 percent shall be used for making grants to State, territorial, and tribal sexual assault coalitions under subsection (d) of this section;

(E) not less than 10 percent shall be used for grants to tribes under subsection (e) of this section; and

(F) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c) of this section.

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PART P—MISCELLANEOUS AUTHORITIES

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[SEC. 14045. GRANTS FOR OUTREACH TO UNDERSERVED POPULATIONS.

[(a) GRANTS AUTHORIZED.—

[(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General, acting through the Director of the Office on Violence Against Women, shall award grants to eligible entities described in subsection (b) of this section to carry out local, regional, or national public information campaigns focused on addressing adult, youth, or minor domestic violence, dating violence, sexual assault, stalking, or trafficking within tribal and underserved populations and immigrant communities, including information on services available to victims and ways to prevent or reduce domestic violence, dating violence, sexual assault, and stalking.

[(2) TERM.—The Attorney General shall award grants under this section for a period of 1 fiscal year.

[(b) ELIGIBLE ENTITIES.—Eligible entities under this section are—

[(1) nonprofit, nongovernmental organizations or coalitions that represent the targeted tribal and underserved populations or immigrant community that—

[(A) have a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

[(B) work in partnership with an organization that has a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

[(2) a governmental entity that demonstrates a partnership with organizations described in paragraph (1).

[(c) ALLOCATION OF FUNDS.—Of the amounts appropriated for grants under this section—

[(1) not more than 20 percent shall be used for national model campaign materials targeted to specific tribal and underserved populations or immigrant community, including American Indian tribes and Alaskan native villages for the purposes of research, testing, message development, and preparation of materials; and

[(2) the balance shall be used for not less than 10 State, regional, territorial, tribal, or local campaigns targeting specific communities with information and materials developed through the national campaign or, if appropriate, new materials to reach an underserved population or a particularly isolated community.

[(d) USE OF FUNDS.—Funds appropriated under this section shall be used to conduct a public information campaign and build the capacity and develop leadership of racial, ethnic populations, or immigrant community members to address domestic violence, dating violence, sexual assault, and stalking.

[(e) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Director of the Office on Violence Against Women at such time, in such form, and in such manner as the Director may prescribe.

[(f) CRITERIA.—In awarding grants under this section, the Attorney General shall ensure—

[(1) reasonable distribution among eligible grantees representing various underserved and immigrant communities;

[(2) reasonable distribution among State, regional, territorial, tribal, and local campaigns; and

[(3) that not more than 8 percent of the total amount appropriated under this section for each fiscal year is set aside for training, technical assistance, and data collection.

[(g) REPORTS.—Each eligible entity receiving a grant under this section shall submit to the Director of the Office of Violence Against Women a report that describes the activities carried out with grant funds.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2007 through 2011.

[(i) DEFINITIONS AND GRANT CONDITIONS.—In this section the definitions and grant conditions in section 13925 of this title shall apply.

SEC. 14045. GRANTS FOR OUTREACH AND SERVICES TO UNDERSERVED POPULATIONS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—Of the amounts appropriated under the grant programs identified in paragraph (2), the Attorney General shall take 2 percent of such appropriated amounts and combine them to award grants to eligible entities described in subsection (b) of this section to develop and implement outreach strategies targeted at adult or youth victims of domestic violence, dating violence, sexual assault, or stalking in underserved populations and to provide victim services to meet the needs of adult and youth victims of domestic violence, dating violence, sexual assault, and stalking in underserved populations. The requirements of the grant programs identified in paragraph (2) shall not apply to this grant program.

(2) PROGRAMS COVERED.—The programs covered by paragraph (1) are the programs carried out under the following provisions:

(A) Section 2001 of the Omnibus Crime Control and Safe Streets Act of 1968 (Grants to Combat Violent Crimes Against Women).

(B) Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program).

(b) ELIGIBLE ENTITIES.—Eligible entities under this section are—

(1) population specific organizations that have demonstrated experience and expertise in providing population specific services in the relevant underserved communities, or population specific organizations working in partnership with a victim service provider or domestic violence or sexual assault coalition;

(2) victim service providers offering population specific services for a specific underserved population; or

(3) victim service providers working in partnership with a national, State, tribal, or local organization that has demonstrated experience and expertise in providing population specific services in the relevant underserved population.

(c) PLANNING GRANTS.—The Attorney General may use up to 25 percent of funds available under this section to make one-time planning grants to eligible entities to support the planning and development of specially designed and targeted programs for adult and youth victims in one or more underserved populations, including—

(1) identifying, building and strengthening partnerships with potential collaborators within underserved populations, Federal, State, tribal, territorial or local government entities, and public and private organizations;

(2) conducting a needs assessment of the community and the targeted underserved population or populations to determine what the barriers are to service access and what factors contribute to those barriers, using input from the targeted underserved population or populations;

(3) identifying promising prevention, outreach and intervention strategies for victims from a targeted underserved population or populations; and

(4) developing a plan, with the input of the targeted underserved population or populations, for implementing prevention, outreach and intervention strategies to address the barriers to accessing services, promoting community engagement in the prevention of domestic violence, dating violence, sexual assault, and stalking within the targeted underserved populations, and evaluating the program.

(d) IMPLEMENTATION GRANTS.—The Attorney General shall make grants to eligible entities for the purpose of providing or enhancing population specific outreach and services to adult and youth victims in one or more underserved populations, including—

(1) working with Federal, State, tribal, territorial and local governments, agencies, and organizations to develop or enhance population specific services;

(2) strengthening the capacity of underserved populations to provide population specific services;

(3) strengthening the capacity of traditional victim service providers to provide population specific services;

(4) strengthening the effectiveness of criminal and civil justice interventions by providing training for law enforcement, prosecutors, judges and other court personnel on domestic violence, dating violence, sexual assault, or stalking in underserved populations; or

(5) working in cooperation with an underserved population to develop and implement outreach, education, prevention, and intervention strategies that highlight available resources and the specific issues faced by victims of domestic violence, dating violence, sexual assault, or stalking from underserved populations.

(e) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Director of the Office on

Violence Against Women at such time, in such form, and in such manner as the Director may prescribe.

(f) REPORTS.—Each eligible entity receiving a grant under this section shall submit to the Director of the Office on Violence Against Women a report that describes the activities carried out with grant funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—In addition to the funds identified in subsection (a)(1), there are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2012 through 2016.

(h) DEFINITIONS AND GRANT CONDITIONS.—In this section the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 (42 U.S.C. 13925) shall apply.

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SEC. 14045a. ENHANCING CULTURALLY [AND LINGUISTICALLY] SPECIFIC SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

(a) ESTABLISHMENT

(1) IN GENERAL.—Of the amounts appropriated under certain grant programs identified in paragraph (a)(2) of this Section, the Attorney General, through the Director of the Violence Against Women Office (referred to in this section as the "Director"), shall take 5 percent of such appropriated amounts and combine them to establish a new grant program to enhance culturally [and linguistically] specific services for victims of domestic violence, dating violence, sexual assault, and stalking. Grants made under this new program shall be administered by the Director. The requirements of the grant programs identified in paragraph (2) shall not apply to this new grant program.

[(2) PROGRAMS COVERED.—The programs covered by paragraph (1) are the programs carried out under the following provisions:

[(A) Section 3796hh of this title, Grants to Encourage Arrest Policies.

[(B) Section 3796gg–6 of this title, Legal Assistance for Victims.

[(C) Section 13971 of this title, Rural Domestic Violence and Child Abuser Enforcement Assistance.

[(D) Section _____ of the Violence Against Women Act of 1994 (42 U.S.C. _____), Older Battered Women.

[(E) Section _____ of the Violence Against Women Act of 2000 (42 U.S.C. _____), Disabled Women Program.

(2) PROGRAMS COVERED.—The programs covered by paragraph (1) are the programs carried out under the following provisions:

(A) Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (Grants to Encourage Arrest Policies and Enforcement of Protection Orders).

(B) Section 14201 of division B of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg–6) (Legal Assistance for Victims).

(C) Section 40295 of the Violence Against Women Act of 1994 (42 U.S.C. 13971) (Rural Domestic Violence, Dating

Violence, Sexual Assault, Stalking, and Child Abuse Enforcement Assistance).

(D) Section 40802 of the Violence Against Women Act of 1994 (42 U.S.C. 14041a) (Enhanced Training and Services to End Violence Against Women Later in Life).

(E) Section 1402 of division B of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg–7) (Education, Training, and Enhanced Services to End Violence Against and Abuse of Women with Disabilities).

(b) PURPOSE OF PROGRAM AND GRANTS.—

(1) GENERAL PROGRAM PURPOSE.—The purpose of the program required by this section is to promote:

(A) The maintenance and replication of existing successful services in domestic violence, dating violence, sexual assault, and stalking community-based programs providing culturally [and linguistically] specific services and other resources.

(B) The development of innovative culturally [and linguistically] specific strategies and projects to enhance access to services and resources for victims of domestic violence, dating violence, sexual assault, and stalking who face obstacles to using more traditional services and resources.

(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—The Director shall make grants to community-based programs for the purpose of enhancing culturally [and linguistically] specific services for victims of domestic violence, dating violence, sexual assault, and stalking. Grants under the program shall support community-based efforts to address distinctive cultural [and linguistic] responses to domestic violence, dating violence, sexual assault, and stalking, including—

(A) working with State and local governments and social service agencies to develop and enhance effective strategies to provide culturally [and linguistically] specific services to victims of domestic violence, dating violence, sexual assault, and stalking;

(B) increasing communities' capacity to provide culturally [and linguistically] specific resources and support for victims of domestic violence, dating violence, sexual assault, and stalking crimes and their families;

(C) strengthening criminal justice interventions, by providing training for law enforcement, prosecution, courts, probation, and correctional facilities on culturally [and linguistically] specific responses to domestic violence, dating violence, sexual assault, and stalking;

(D) enhancing traditional services to victims of domestic violence, dating violence, sexual assault, and stalking through the leadership of culturally [and linguistically] specific programs offering services to victims of domestic violence, dating violence, sexual assault, and stalking;

(E) working in cooperation with the community to develop education and prevention strategies highlighting culturally [and linguistically] specific issues and resources

regarding victims of domestic violence, dating violence, sexual assault, and stalking;

(F) providing culturally [and linguistically] specific programs for children exposed to domestic violence, dating violence, sexual assault, and stalking;

(G) providing culturally [and linguistically] specific resources and services that address the safety, economic, housing, and workplace needs of victims of domestic violence, dating violence, sexual assault, or stalking, including emergency assistance; or

(H) examining the dynamics of culture and its impact on victimization and healing.

(3) TECHNICAL ASSISTANCE AND TRAINING.—The Director shall provide technical assistance and training to grantees of this and other programs under this Act regarding the development and provision of effective culturally [and linguistically] specific community-based services by entering into cooperative agreements or contracts with an organization or organizations having a demonstrated expertise in and whose primary purpose is addressing the development and provision of culturally [and linguistically] specific community-based services to victims of domestic violence, dating violence, sexual assault, and stalking.

(c) ELIGIBLE ENTITIES.—Eligible entities for grants under this Section include—

(1) community-based programs whose primary purpose is providing culturally [and linguistically] specific services to victims of domestic violence, dating violence, sexual assault, and stalking; and

(2) community-based programs whose primary purpose is providing culturally [and linguistically] specific services who can partner with a program having demonstrated expertise in serving victims of domestic violence, dating violence, sexual assault, and stalking.

(d) REPORTING.—The Director shall issue a biennial report on the distribution of funding under this section, the progress made in replicating and supporting increased services to victims of domestic violence, dating violence, sexual assault, and stalking who face obstacles to using more traditional services and resources, and the types of culturally [and linguistically] accessible programs, strategies, technical assistance, and training developed or enhanced through this program.

(e) GRANT PERIOD.—The Director shall award grants for a 2-year period, with a possible extension of another 2 years to implement projects under the grant.

(f) EVALUATION.—The Director shall award a contract or cooperative agreement to evaluate programs under this section to an entity with the demonstrated expertise in and primary goal of providing enhanced cultural [and linguistic] access to services and resources for victims of domestic violence, dating violence, sexual assault, and stalking who face obstacles to using more traditional services and resources.

(g) NON-EXCLUSIVITY.—Nothing in this Section shall be interpreted to exclude [linguistic and] culturally specific community-

based programs from applying to other grant programs authorized under this Act.

(h) DEFINITIONS AND GRANT CONDITIONS.—In this section the definitions and grant conditions in section 13925 of this title shall apply.

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SEC. 14045b. GRANTS TO COMBAT VIOLENT CRIMES ON CAMPUSES.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat domestic violence, dating violence, sexual assault, [and stalking on campuses, and] *stalking on campuses,* to develop and strengthen victim services in cases involving such [crimes against women on] *crimes on* campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies*, and to develop and strengthen prevention education and awareness programs.*

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis for a period of 3 years. The Attorney General, through the Director of the Office on Violence Against Women, shall award the grants in amounts of not more than [$500,000] *$300,000* for individual institutions of higher education and not more than $1,000,000 for consortia of such institutions.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section;

(B) the equitable geographic distribution of grants under this section among the various regions of the United States; and

(C) the equitable distribution of grants under this section to tribal colleges and universities and traditionally black colleges and universities.

(b) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing domestic violence, dating violence, sexual assault, and stalking on campus.

(2) To develop, *strengthen,* and implement campus policies, protocols, and services that more effectively identify and respond to the crimes of domestic violence, dating violence, sexual assault and stalking, *including the use of technology to commit these crimes,* and to train campus administrators, campus security personnel, and personnel serving on campus dis-

ciplinary or judicial boards on such policies, protocols, and services. Within 90 days after January 5, 2006, the Attorney General shall issue and make available minimum standards of training relating to domestic violence, dating violence, sexual assault, and stalking on campus, for all campus security personnel and personnel serving on campus disciplinary or judicial boards.

(3) To implement and operate education programs for the prevention of domestic violence, dating violence, sexual assault, and stalking.

(4) To develop, enlarge, or strengthen victim services programs *and population specific services* on the campuses of the institutions involved, including programs providing legal, medical, or psychological counseling, for victims of domestic violence, dating violence, sexual assault, and stalking, and to improve delivery of victim assistance on campus. To the extent practicable, such an institution shall collaborate with any [entities carrying out nonprofit and other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs] *victim service providers* in the community in which the institution is located. If appropriate victim services programs are not available in the community or are not accessible to students, the institution shall, to the extent practicable, provide a victim services program on campus or create a victim services program in collaboration with a community-based organization. The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph*, regardless of whether the services are provided by the institution or in coordination with community victim service providers.*

(5) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action, including assistance to victims in immigration matters.

(6) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to the crimes of domestic violence, dating violence, sexual assault, and stalking on campus.

(7) To provide capital improvements (including improved lighting and communications facilities but not including the construction of buildings) on campuses to address the crimes of domestic violence, dating violence, sexual assault, and stalking.

(8) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce domestic violence, dating violence, sexual assault, and stalking on campus.

(9) To develop or adapt and provide developmental, culturally appropriate, and linguistically accessible print or electronic materials to address both prevention and intervention in domestic violence, dating violence, sexual violence, and stalking.

(10) To develop or adapt population specific strategies and projects for victims of domestic violence, dating violence, sexual assault, and stalking from underserved populations on campus.

(c) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time and in such manner as the Attorney General shall prescribe.

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

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) include proof that the institution of higher education collaborated with [any non-profit, nongovernmental entities carrying out other victim services programs] *victim service providers*, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) describe how underserved populations in the campus community will be adequately served, including the provision of relevant population specific services;

[(D)] *(E)* provide measurable goals and expected results from the use of the grant funds;

[(E)] *(F)* provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

[(F)] *(G)* include such other information and assurances as the Attorney General reasonably determines to be necessary.

(3) COMPLIANCE WITH CAMPUS CRIME REPORTING REQUIRED.—No institution of higher education shall be eligible for a grant under this section unless such institution is in compliance with the requirements of section 1092(f) of Title 20. Up to $200,000 of the total amount of grant funds appropriated under this section for fiscal years [2007 through 2011] *2012 through 2016* may be used to provide technical assistance in complying with the mandatory reporting requirements of section 1092(f) of title 20.

(d) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial,

technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) GRANTEE REPORTING.—

(A) ANNUAL REPORT.—Each institution of higher education receiving a grant under this section shall submit a performance report to the Attorney General. The Attorney General shall suspend funding under this section for an institution of higher education if the institution fails to submit such a report.

(B) FINAL REPORT.—Upon completion of the grant period under this section, the institution shall file a performance report with the Attorney General and the Secretary of Education explaining the activities carried out under this section together with an assessment of the effectiveness of those activities in achieving the purposes described in subsection (b).

(3) GRANTEE MINIMUM REQUIREMENTS.—Each grantee shall comply with the following minimum requirements during the grant period:

(A) The grantee shall create a coordinated community response including both organizations external to the institution and relevant divisions of the institution.

(B) The grantee shall establish a mandatory prevention and education program on domestic violence, dating violence, sexual assault, and stalking for all incoming students.

(C) The grantee shall train all campus law enforcement to respond effectively to domestic violence, dating violence, sexual assault, and stalking.

(D) The grantee shall train all members of campus disciplinary boards to respond effectively to situations involving domestic violence, dating violence, sexual assault, or stalking.

[(3)**]** *(4)* REPORT TO CONGRESS.—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to Congress a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this part.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, **[**there are authorized to be appropriated $12,000,000 for fiscal year 2007 and $15,000,000 for each of fiscal years 2008 through 2011.**]** *there is authorized to be appropriated $12,000,000 for each of fiscal years 2012 through 2016.*

SEC. 14045c. PUBLIC AWARENESS CAMPAIGN.

[(a) IN GENERAL.—The Attorney General, acting through the Office on Violence Against Women, shall make grants to States for carrying out a campaign to increase public awareness of issues regarding domestic violence against pregnant women.

[(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.]

SEC. 14045d. CONSULTATION.

(a) IN GENERAL.—The Attorney General shall conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902) [and the Violence Against Women Act of 2000]*, the Violence Against Women Act of 2000* (division B of Public Law 106–386; 114 Stat. 1491), *and the Violence Against Women Reauthorization Act of 2011.*

(b) RECOMMENDATIONS.—During consultations under subsection (a) of this section, the [Secretary of the Department of Health and Human Services] *Secretary of Health and Human Services, the Secretary of the Interior*, and the Attorney General shall solicit recommendations from Indian tribes concerning—

(1) administering tribal funds and programs;

(2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, [and stalking] *stalking, and sex trafficking*; and

(3) strengthening the Federal response to such violent crimes.

(c) ANNUAL REPORT.—The Attorney General shall submit to Congress an annual report on the annual consultations required under subsection (a) that—

(1) contains the recommendations made under subsection (b) by Indian tribes during the year covered by the report;

(2) describes actions taken during the year covered by the report to respond to recommendations made under subsection (b) during the year or a previous year; and

(3) describes how the Attorney General will work in coordination and collaboration with Indian tribes, the Secretary of Health and Human Services, and the Secretary of the Interior to address the recommendations made under subsection (b).

(d) NOTICE.—Not later than 120 days before the date of a consultation under subsection (a), the Attorney General shall notify tribal leaders of the date, time, and location of the consultation.

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CHAPTER 147—PRISON RAPE ELIMINATION

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SEC. 15607. ADOPTION AND EFFECT OF NATIONAL STANDARDS

(a) PUBLICATION OF PROPOSED STANDARDS.—

(1) FINAL RULE.—Not later than 1 year after receiving the report specified in section 15606(d)(3) of this title, the Attorney

General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.

(2) INDEPENDENT JUDGMENT.—The standards referred to in paragraph (1) shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 15606(e) of this title, and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

(3) LIMITATION.—The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities. The Attorney General may, however, provide a list of improvements for consideration by correctional facilities.

(4) TRANSMISSION TO STATES.—Within 90 days of publishing the final rule under paragraph (1), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State, the head of the department of corrections of each State, and to the appropriate authorities in those units of local government who oversee operations in one or more prisons.

(b) APPLICABILITY TO FEDERAL BUREAU OF PRISONS.—The national standards referred to in subsection (a) of this section shall apply to the Federal Bureau of Prisons immediately upon adoption of the final rule under subsection (a)(4) of this section.

(c) APPLICABILITY TO DETENTION FACILITIES OPERATED BY THE DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Violence Against Women Reauthorization Act of 2011, the Secretary of Homeland Security shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of aliens detained for a violation of the immigrations laws of the United States.

(2) APPLICABILITY.—The standards adopted under paragraph (1) shall apply to detention facilities operated by the Department of Homeland Security and to detention facilities operated under contract with the Department.

(3) COMPLIANCE.—The Secretary of Homeland Security shall—

(A) assess compliance with the standards adopted under paragraph (1) on a regular basis; and

(B) include the results of the assessments in performance evaluations of facilities completed by the Department of Homeland Security.

(4) CONSIDERATIONS.—In adopting standards under paragraph (1), the Secretary of Homeland Security shall give due consideration to the recommended national standards provided by the Commission under section 7(e).

(5) DEFINITION.—As used in this section, the term 'detention facilities operated under contract with the Department' includes, but is not limited to contract detention facilities and de-

tention facilities operated through an intergovernmental service agreement with the Department of Homeland Security.

(d) APPLICABILITY TO CUSTODIAL FACILITIES OPERATED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Violence Against Women Reauthorization Act of 2011, the Secretary of Health and Human Services shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of unaccompanied alien children (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))).

(2) APPLICABILITY.—The standards adopted under paragraph (1) shall apply to facilities operated by the Department of Health and Human Services and to facilities operated under contract with the Department.

(3) COMPLIANCE.—The Secretary of Health and Human Services shall—

(A) assess compliance with the standards adopted under paragraph (1) on a regular basis; and

(B) include the results of the assessments in performance evaluations of facilities completed by the Department of Health and Human Services.

(4) CONSIDERATIONS.—In adopting standards under paragraph (1), the Secretary of Health and Human Services shall give due consideration to the recommended national standards provided by the Commission under section 7(e).

[(c)**]** *(e)* ELIGIBILITY FOR FEDERAL FUNDS.—

(1) COVERED PROGRAMS.—

(A) IN GENERAL.—For purposes of this subsection, a grant program is covered by this subsection if, and only if—

(i) the program is carried out by or under the authority of the Attorney General; and

(ii) the program may provide amounts to States for prison purposes.

(B) LIST.—For each fiscal year, the Attorney General shall prepare a list identifying each program that meets the criteria of subparagraph (A) and provide that list to each State.

(2) ADOPTION OF NATIONAL STANDARDS.—For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive of the State submits to the Attorney General—

(A) a certification that the State has adopted, and is in full compliance with, the national standards described in subsec. (a) of this section; or

(B) an assurance that not less than 5 percent of such amount shall be used only for the purpose of enabling the State to adopt, and achieve full compliance with, those national standards, so as to ensure that a certification under subparagraph (A) may be submitted in future years.

(3) REPORT ON NONCOMPLIANCE.—Not later than September 30 of each year, the Attorney General shall publish a report listing each grantee that is not in compliance with the national standards adopted pursuant to subsec. (a) of this section.

(4) COOPERATION WITH SURVEY.—For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes (and shall be returned to the grant program if no other authorized use is available), unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report issued by the Attorney General pursuant to section 15603(c)(2)(C) of this title.

(5) REDISTRIBUTION OF AMOUNTS.—Amounts under a grant program not granted by reason of a reduction under paragraph (2), or returned by reason of the prohibition in paragraph (4), shall be granted to one or more entities not subject to such reduction or such prohibition, subject to the other laws governing that program.

(6) IMPLEMENTATION.—The Attorney General shall establish procedures to implement this subsection, including procedures for effectively applying this subsection to discretionary grant programs.

(7) EFFECTIVE DATE.—

(A) REQUIREMENT OF ADOPTION OF STANDARDS.—The first grants to which paragraph (2) applies are grants for the second fiscal year beginning after the date on which the national standards under subsec. (a) are finalized.

(B) REQUIREMENT FOR COOPERATION.—The first grants to which paragraph (4) applies are grants for the fiscal year beginning after September 4, 2003.

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TITLE 47—TELEGRAPHS, TELEPHONES, AND RADIO TELEGRAPHS

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CHAPTER 5—WIRE OR RADIO COMMUNICATION

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Subchapter II—Common Carriers

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PART I—COMMON CARRIER REGULATION

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SEC. 223. OBSCENE OR HARASSING TELEPHONE CALLS IN THE DISTRICT OF COLUMBIA OR IN INTERSTATE OR FOREIGN COMMUNICATIONS.

(a) PROHIBITED ACTS GENERALLY.—Whoever—

(1) In interstate or foreign communications—

(A) by means of a telecommunications device knowingly—

(i) makes, creates, or solicits, and

(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene or child pornography, with intent to [annoy,] abuse, threaten, or harass another person;

(B) by means of a telecommunications device knowingly—

(i) makes, creates, or solicits, and

(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene or child pornography, knowing that the recipient of the communication is under 18 years of age, regardless of whether the maker of such communication placed the call or initiated the communication;

(C) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to [annoy,] abuse, threaten, or [harass any person at the called number or who receives the communications] *harass any specific person*;

(D) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(E) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to [harass any person at the called number or who receives the communication] *harass any specific person*; or

(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under Title 18 or imprisoned not more than two years, or both.

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TITLE 48—TERRITORIES AND INSULAR POSSESSIONS

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CHAPTER 17—NORTHERN MARIANA ISLANDS

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Subchapter I—Approval and Supplemental Provisions

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SEC. 1806. IMMIGRATION AND TRANSITION.

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Note.

(c) CONSTRUCTION.—Nothing in this subtitle or the amendments made by this subtitle [Pub.L. 110–229, Title VII, Subtitle A (§§ 701 to 705), May 8, 2008, 122 Stat. 853 to 867, which enacted this section and 48 U.S.C.A. §§ 1807 and 1808, amended 8 U.S.C.A.

§§ 1101, 1158, 1182, 1184, 1225, and 48 U.S.C.A. § 1804, and enacted provisions set out as notes under this section, 8 U.S.C.A § 1182 and 48 U.S.C.A. § 1801 and amended provisions set out as a note under 48 U.S.C.A. § 1801] shall be construed to make any residence or presence in the Commonwealth before the transition program effective date described in section 6 of Public Law 94–241 (as added by section 702(a)) [this section] residence or presence in the United States, [except that, for the purpose only of determining whether an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) has abandoned or lost such status by reason of absence from the United States, such alien's presence in the Commonwealth before, on, or after the date of enactment of this Act [May 8, 2008] shall be considered to be presence in the United States.] *except that—*

(1) for the purpose of determining whether an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) has abandoned or lost such status by reason of absence from the United States, such alien's presence in the Commonwealth, before, on or after November 28, 2009, shall be considered to be presence in the United States; and

(2) for the purpose of determining whether an alien whose application for status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) was granted is subsequently eligible for adjustment under subsection (l) or (m) of section 245 of such Act (8 U.S.C. 1255), such alien's physical presence in the Commonwealth before, on, or after November 28, 2009, and subsequent to the grant of the application, shall be considered as equivalent to presence in the United States pursuant to a nonimmigrant admission in such status.

HUMAN
RIGHTS
CAMPAIGN®

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VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2011:

LGBT STORIES OF DISCRIMINATION

Studies indicate that lesbian, gay, bisexual and transgender (LGBT) people experience domestic violence at roughly the same rate as the general population. Unfortunately, LGBT victims too often do not receive the protection and services they need because service providers, law enforcement, and judges are not engaged in outreach to the LGBT community, lack the cultural competency to effectively work with LGBT victims, or do not have access to funding to develop appropriate services. The following stories are real-life examples of people who have been discriminated against by service providers, law enforcement, and judges after becoming victim to domestic violence. Personally identifiable information has been reacted from the stories to protect victim identities.

Julie, lesbian woman

Initially, Julie suffered verbal abuse, so she didn't take it seriously. Eventually, the abuse became so physically severe that Julie was hospitalized and nearly died from internal injuries. Julie rarely heard about domestic violence in the LGBT community and didn't think anyone would take her abuse seriously. Julie's therapist was not familiar with LGBT domestic violence. Her family blamed the violence on her sexual orientation. When she called a domestic violence hotline, the hotline operator refused to acknowledge that Julie's partner was female. Julie reached out to the facilitator of a support group for domestic violence victims but was told that group members were heterosexual, so she wouldn't "fit in." The first time she went to a shelter, the other residents were so homophobic she was forced to leave.

Greg, gay male

Greg reported that he was attacked by his partner. When the police arrived at the scene, they were condescending and rude to Greg, asking him why he let this happen and why he was with this "loser." Then, instead of arresting the partner for assault, the police simply removed Greg's partner from the residence, dropped him off three blocks away, and gave him a summons.

Alma, transgender woman

Alma and Tony began dating and eventually moved in together. Alma noticed that Tony's behavior changed almost immediately after she moved in. Tony would punch Alma and tell her to take it like a man. When Alma would tell him to stop, Tony would scream and hit her harder. Neighbors called the police more than once, but they never arrested Tony because they said fighting between two men wasn't domestic violence. One officer actually said that if Alma were arrested, they wouldn't know where to put her. One night, Alma told Tony that she would report him to the police. Tony responded by beating her. When Tony fell asleep that night, Alma escaped to a hospital. A hospital social worker referred her to a domestic violence program, but the program told her they could not help "people like her" and suggested she call her family. Her family had disowned her years ago because of her gender identity.

Victor, gay man

Victor met Robert at a movie premiere. They dated for five months before moving in together. After moving in together, Robert would wait up for Victor when he went out and question him about where he had been. After Victor went out to dinner with a friend from work, Robert grabbed a screwdriver and threatened to stab Victor. On another occasion, Robert wrapped a heavy chain around his fist and hit Victor in the face. Victor called the police, but they said, "What would you like us to do? You're both male." Victor also called a domestic violence hotline, but they didn't believe that Victor was actually being victimized and implied that he must be abusing his partner because he is male.

Brian, gay male

Brian was severely beaten in the face by his abusive ex-partner. Brian suffered broken bones in his face and injuries to his mouth and teeth. Brian was in need of a medical procedure to repair the damage. There was only one local domestic violence program that provided the medical services that Brian needed. However, Brian was denied assistance. Meanwhile, despite denying Brian assistance, the program continued to advertise that it had many available surgery slots at local hospitals.

Sheila, transgender woman

Sheila suffered harassment and stalking from her abusive ex-partner. Sheila had been with her partner for seven years and was in the relationship for four years before she started transitioning. Sheila left her partner after her partner strangled her. Sheila connected with a domestic violence attorney who helped her with the restraining order process. At the hearing, Sheila was denied the restraining order. The judge told her that she was too big to be afraid of anyone. Sheila has not been able to get an appeal approved and continues to experience harassment and stalking from her ex-partner.

Frank, gay male

Frank reported that for over five years he was the target of threats and harassment by his former partner of thirteen years. Based on this stalking, Frank repeatedly appealed to the Sheriff's office. On one such occasion a Deputy Sheriff said that if they contacted the ex, the ex would likely get upset, so it was probably best for Frank to stay home to protect himself. Another time the Sheriff hung up on Frank and after telling him this was his own problem to deal with. Similarly, when Frank went to the county attorney with his case, he was told that they do not specialize in cases "like this."

Heather, lesbian woman

Heather is a disabled and dated her abuser, Helena, for about a year. Heather's disability and her need for customized furniture prevented her from leaving her home to go to a domestic violence shelter. Eventually, Heather obtained a restraining order against Helena, but that didn't stop Helena from stalking

Heather. Heather would call the police when Helena came around, but the police generally failed to arrest Helena if Helena had not assaulted Heather, even though there is mandatory arrest for violations of a restraining order in her state. Helena was finally arrested when she stabbed Heather in the head with a hypodermic needle. The district attorney's office prosecuting Helena failed to seek a dangerousness hearing when bail was set during arraignment. Helena broke into Heather's apartment, where she then overdosed on drugs and was removed by an ambulance. Even then, the police department failed to arrest or summons Helena for violating the restraining order.

Michael, gay man

Michael lived with his ex-boyfriend, Carlos. Michael was asleep one night following an argument with Carlos when he was attacked. Carlos hit Michael and then used the electrical cord of a lamp to strangle him. A neighbor heard the attack and called the police, who found Michael unconscious. Carlos was arrested. Michael spent over three days in the hospital before entering a domestic violence shelter. Carlos took a plea bargain to avoid jail. The judge, however, minimized the attack and their relationship, and sentenced Carlos to a 12-week anger management program rather than a 52-week batterer's treatment program.

Tanya, a transgender woman

Tanya was engaged in an intimate relationship with Robert that became increasingly violent. The relationship ended after the police were called because Robert was holding a shotgun to Tanya's face. When Tanya told the officers that she was a woman, they said she should leave the home because there was nothing they could do for her. No police report was filed. Tanya sought care at a local hospital. Tanya's doctor tried to find her a domestic violence shelter, but she was told no program would take her because she was transgender. The hospital staff sent Tanya in a taxi to a local homeless shelter where she was made to sleep on the concrete floor and was not allowed to sleep on beds like the other people staying at the shelter.

Brad, gay male

On three separate occasions, Brad unsuccessfully requested a restraining order against a past boyfriend who had not only damaged his property, including his car, but had also physically harmed him. While the former boyfriend had the resources to retain counsel, Brad did not. According to Brad, it was clear that the judges to whom he submitted requests for a restraining order did not take him seriously because the issue was between two gay men.

Felipe, gay male

Felipe suffered two blood clots in his brain, a broken jaw, bleeding from his ear and a gash in his head after his roommate, Matt, with whom he was in a relationship, and his roommate's brother, Bill, almost beat him to death. His injuries were so severe that he had to be flown to a neighboring city for treatment. Despite the degree of his trauma, the state's attorney decided to only charge one of the assailants, Matt, with battery. Matt was not charged with domestic battery because the state's attorney did not speak to Felipe before filing charges – even though Felipe tried to contact the attorney's office on multiple occasions to explain the extent of the relationship between Carlos and Matt.

Martin, gay male

Martin reported that he was being physically abused by his partner with whom he and his daughter shared a home. On numerous occasions, Martin contacted 911 to report the abuse. Officers threatened not only

to arrest both Martin and the partner the next time they received a call, but said that they would report Martin to child protective services. The caller wanted to extricate himself and his daughter from the situation, but due to a recent job loss he could not afford to move; therefore, he tried to get a restraining order against his partner, but the police refused despite the history of abuse and the imminent threat posed to Martin and his daughter's safety.

These stories were compiled from service providers serving the LGBT community, such as Lambda Legal and members of the National Coalition of Anti-Violence Programs.

U. S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 21, 2011

The Honorable Joseph R. Biden, Jr.
President
United States Senate
Washington, D.C. 20510

Dear Mr. President:

In anticipation of this year's reauthorization of the Violence Against Women Act (VAWA), the Department of Justice has been engaging in comprehensive discussions, including formal consultations with Indian tribes, about how best to protect the safety of Native women. As you know, the Department has placed a high priority on combating violence against women in tribal communities. We now believe that this goal could be significantly advanced by new Federal legislation.

Violence against Native women has reached epidemic rates. One regional survey conducted by University of Oklahoma researchers showed that nearly three out of five Native American women had been assaulted by their spouses or intimate partners. According to a nationwide survey funded by the National Institute of Justice (NIJ), one third of all American Indian women will be raped during their lifetimes. And an NIJ-funded analysis of death certificates found that, on some reservations, Native women are murdered at a rate more than ten times the national average. Tribal leaders, police officers, and prosecutors tell us of an all-too-familiar pattern of escalating violence that goes unaddressed, with beating after beating, each more severe than the last, ultimately leading to death or severe physical injury.

Something must be done to address this cycle of violence. For a host of reasons, the current legal structure for prosecuting domestic violence in Indian country is not well-suited to combating this pattern of escalating violence. Federal resources, which are often the only ones that can investigate and prosecute these crimes, are often far away and stretched thin. Federal law does not provide the tools needed to address the types of domestic or dating violence that elsewhere in the United States might lead to convictions and sentences ranging from approximately six months to five years — precisely the sorts of prosecutions that respond to the early instances of escalating violence against spouses or intimate partners.

Tribal governments — police, prosecutors, and courts — should be essential parts of the response to these crimes. But under current law, they lack the authority to address many of these crimes. Until recently, no matter how violent the offense, tribal courts could only sentence Indian offenders to one year in prison. Under the Tribal Law and Order Act (TLOA), landmark legislation that Congress enacted last year, tribal courts can now sentence Indian offenders for up to three years per offense, provided defendants are given proper procedural protections, including legal counsel. But tribal courts have no authority at all to prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. Tribal police officers who respond to a domestic-violence call, only to discover that the accused is non-Indian and therefore outside the tribe's criminal jurisdiction, often mistakenly believe they cannot even make an arrest. Not surprisingly, abusers who are not arrested are more likely to repeat, and escalate, their attacks. Research shows that law enforcement's failure to arrest and prosecute abusers both emboldens attackers and deters victims from reporting future incidents.

In short, the jurisdictional framework has left many serious acts of domestic violence and dating violence unprosecuted and unpunished.

The Department of Justice is therefore asking Congress to consider proposals to address the epidemic of domestic violence against Native women. Draft legislative language and an explanatory document are attached to this letter. The legislation we propose would:

- Recognize certain tribes' concurrent criminal jurisdiction to investigate, prosecute, convict, and sentence both Indians and non-Indians who assault Indian spouses, intimate partners, or dating partners, or who violate protection orders, in Indian country.

- Clarify that tribal courts have full civil jurisdiction to issue and enforce certain protection orders against both Indians and non-Indians.

- Amend the Federal Criminal Code to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating; a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily injury; and a one-year offense for assaulting a person by striking, beating, or wounding.

We believe that these changes in Federal law will significantly improve the safety of women in tribal communities and allow Federal and tribal law-enforcement agencies to hold more perpetrators of domestic violence accountable for their crimes. We look forward to working with you on these critically important issues.

Thank you for the opportunity to present these proposals. The Office of Management and Budget has advised us that there is no objection to submission of this legislative proposal from the standpoint of the Administration's program.

Sincerely,

Ronald Weich
Assistant Attorney General

Attachments

IDENTICAL LETTER SENT TO THE HONORABLE JOSEPH BIDEN, PRESIDENT OF THE UNITED STATES SENATE

U. S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 21, 2011

The Honorable John A. Boehner
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

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Something must be done to address this cycle of violence. For a host of reasons, the current legal structure for prosecuting domestic violence in Indian country is not well-suited to combating this pattern of escalating violence. Federal resources, which are often the only ones that can investigate and prosecute these crimes, are often far away and stretched thin. Federal law does not provide the tools needed to address the types of domestic or dating violence that elsewhere in the United States might lead to convictions and sentences ranging from approximately six months to five years — precisely the sorts of prosecutions that respond to the early instances of escalating violence against spouses or intimate partners.

Tribal governments — police, prosecutors, and courts — should be essential parts of the response to these crimes. But under current law, they lack the authority to address many of these crimes. Until recently, no matter how violent the offense, tribal courts could only sentence Indian offenders to one year in prison. Under the Tribal Law and Order Act (TLOA), landmark legislation that Congress enacted last year, tribal courts can now sentence Indian offenders for up to three years per offense, provided defendants are given proper procedural protections, including legal counsel. But tribal courts have no authority at all to prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. Tribal police officers who respond to a domestic-violence call, only to discover that the accused is non-Indian and therefore

outside the tribe's criminal jurisdiction, often mistakenly believe they cannot even make an arrest. Not surprisingly, abusers who are not arrested are more likely to repeat, and escalate, their attacks. Research shows that law enforcement's failure to arrest and prosecute abusers both emboldens attackers and deters victims from reporting future incidents.

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Thank you for the opportunity to present these proposals. The Office of Management and Budget has advised us that there is no objection to submission of this legislative proposal from the standpoint of the Administration's program.

Sincerely,

Ronald Weich
Assistant Attorney General

Attachments

IDENTICAL LETTER SENT TO THE HONORABLE JOSEPH BIDEN, PRESIDENT OF THE UNITED STATES SENATE

Title: To decrease the incidence of violent crimes against Indian women, to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this new title of the Violence Against Women Act of 2011 is as follows:

Sec. 1. Table of contents.

Sec. 2. Tribal jurisdiction over crimes of domestic violence.

Sec. 3. Tribal protection orders.

Sec. 4. Amendments to the Federal assault statute.

Sec. 5. Effective dates; pilot project.

Sec. 6. Severability.

Sec. 7. Technical amendments.

SEC. 2. TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC VIOLENCE.

Subchapter I of chapter 15 of title 25, United States Code (25 U.S.C. 1301 et seq.), is amended by adding at the end the following new section:

"SEC. 1304. TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC VIOLENCE.

"(a) DEFINITIONS.—In this section, the term—

"(1) 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship;

"(2) 'domestic violence' means violence 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 cohabitating with or has cohabitated with the victim as a spouse, or by a person similarly situated to a spouse of the victim under the domestic- or family-violence laws of an Indian tribe that has jurisdiction where the violence occurs;

"(3) 'Indian Civil Rights Act' means sections 1301 to 1303, as amended;

"(4) 'Indian country' has the meaning given that term in section 1151 of title 18, United States Code;

"(5) 'participating tribe' means an Indian tribe that elects to exercise special domestic-violence criminal jurisdiction over the Indian country of such tribe;

"(6) 'protection order' means any injunction, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection;

"(7) 'special domestic-violence criminal jurisdiction' means the criminal jurisdiction that a participating tribe can exercise pursuant to this section but could not otherwise exercise; and

"(8) 'spouse or intimate partner' has the meaning given that term in section 2266(7) of title 18, United States Code.

"(b) NATURE OF THE CRIMINAL JURISDICTION.—

"(1) Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed by the Indian Civil Rights Act, the powers of self-government of participating tribes include the inherent power of those tribes, hereby recognized and affirmed, to exercise special domestic-violence criminal jurisdiction over all persons, subject to the limitations set forth in this subchapter.

"(2) A participating tribe shall exercise special domestic-violence criminal jurisdiction concurrently, not exclusively.

"(3) Nothing in this section creates or eliminates any Federal or State criminal jurisdiction or affects the authority of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.

"(c) CRIMINAL CONDUCT.—A participating tribe may exercise special domestic-violence criminal jurisdiction over a defendant only for criminal conduct that falls into one or both of the following categories:

"(1) DOMESTIC VIOLENCE AND DATING VIOLENCE.—Any act of domestic violence or dating violence that is occurring or has occurred in the Indian country of the participating tribe.

"(2) VIOLATIONS OF PROTECTION ORDERS.—Any act that is occurring or has occurred in the Indian country of the participating tribe and that violates or violated

the relevant portion of a protection order that was issued against the defendant, is enforceable by the participating tribe, and is consistent with section 2265(b) of title 18, United States Code. In this paragraph, the term 'relevant portion of a protection order' means the portion of such order that prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person.

"(d) DISMISSAL OF CERTAIN CASES.—

"(1) In a criminal proceeding in which a participating tribe exercises special domestic-violence criminal jurisdiction, if the defendant files a pretrial motion to dismiss on the ground that the crime did not involve any Indian, the case shall be dismissed if the prosecuting tribe fails to prove that the defendant or an alleged victim, or both, is an Indian.

"(2) In a criminal proceeding in which a participating tribe exercises special domestic-violence criminal jurisdiction, if the defendant files a pretrial motion to dismiss on the ground that the defendant and the alleged victim lack sufficient ties to the tribe, the case shall be dismissed if the prosecuting tribe fails to prove that the defendant or an alleged victim, or both, resides in the Indian country of the prosecuting tribe, is employed in the Indian country of the prosecuting tribe, or is a spouse or intimate partner of a member of the prosecuting tribe.

"(3) A knowing and voluntary failure to file a pretrial motion under paragraph (1) or paragraph (2) shall be deemed a waiver.

"(4) In any criminal proceeding in which a participating tribe exercises special domestic-violence criminal jurisdiction based on a criminal violation of a protection order, the 'victim' shall be deemed to be the person or persons specifically protected by the provision of the order that the defendant allegedly violated.

"(e) RIGHTS OF DEFENDANTS.—In a criminal proceeding in which a participating tribe exercises special domestic-violence criminal jurisdiction, the tribe shall provide to the defendant—

"(1) all rights protected by the Indian Civil Rights Act;

"(2) if a term of imprisonment of any length is imposed, all rights described in paragraphs (1) through (5) of section 1302(c); and

"(3) all other rights whose protection would be required by the United States Constitution in order to allow the participating tribe to exercise criminal jurisdiction over the defendant.

"(f) PETITIONS TO STAY DETENTION.—Any person who has filed a petition for a writ of habeas corpus in a court of the United States under section 1303 may petition that court to stay further execution of his tribal detention. The court shall grant the stay if it finds that there is a substantial likelihood that the habeas corpus petition will be granted and,

after giving the alleged victim or victims of the petitioner an opportunity to be heard, also finds by clear and convincing evidence that, under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or to the community if released.

"(g) GRANTS TO TRIBAL GOVERNMENTS.—The Attorney General may award grants to the governments of Indian tribes (or to authorized designees of those governments) to—

"(1) strengthen tribal criminal-justice systems, including law enforcement (including the capacity to enter information into and obtain information from national crime information databases), prosecution, trial and appellate courts, probation, detention and correctional facilities, alternative rehabilitation centers, culturally appropriate services and assistance for victims and their families, criminal codes, and rules of criminal procedure, appellate procedure, and evidence, to assist tribes in exercising special domestic-violence criminal jurisdiction;

"(2) provide indigent criminal defendants with the effective assistance of licensed defense counsel, at no cost to those defendants, in criminal proceedings in which a tribe is prosecuting a crime of domestic or dating violence or a criminal violation of a protection order;

"(3) ensure that, in criminal proceedings in which a participating tribe exercises special domestic-violence criminal jurisdiction, jurors are summoned, selected, and instructed in a manner consistent with all legal requirements; and

"(4) accord victims of domestic violence, dating violence, and protection-order violations a set of crime victims' rights similar to those described in section 3771(a) of title 18, United States Code, consistent with tribal law and custom.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the grants described in subsection (g) and to provide training, technical assistance, data collection, and evaluation to improve the criminal-justice systems of participating tribes.

"(i) NONSUPPLANTATION.—Amounts made available under this subchapter shall be used to supplement and not supplant other Federal, State, tribal, and local funds expended to further the purposes of this subchapter.".

SEC. 3. TRIBAL PROTECTION ORDERS.

Section 2265 of title 18, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any persons, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151 of title 18) or otherwise

within the authority of the Indian tribe.".

SEC. 4. AMENDMENTS TO THE FEDERAL ASSAULT STATUTE.

(a) ASSAULTS BY STRIKING, BEATING, OR WOUNDING.—Section 113(a)(4) of title 18, United States Code, is amended by striking "six months" and inserting "1 year".

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113(a)(7) of title 18, United States Code, is amended by striking "substantial bodily injury to an individual who has not attained the age of 16 years" and inserting "substantial bodily injury to a spouse or intimate partner, a dating partner, or an individual who has not attained the age of 16 years".

(c) ASSAULTS BY STRANGLING OR SUFFOCATING.—Section 113(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) Assault upon a spouse or intimate partner or dating partner by strangling, suffocating, or attempting to strangle or suffocate, by a fine under this title or imprisonment for not more than ten years, or both.".

(d) DEFINITIONS.—Section 113(b) of title 18, United States Code, is amended—

(1) by striking "As used in this subsection" and inserting "As used in this section";

(2) in paragraph (1), by striking "and";

(3) in paragraph (2), by striking the period and inserting a semicolon;

(4) by adding at the end the following new paragraphs:

"(3) the term 'dating partner' has the meaning given that term in section 2266(10);

"(4) the term 'spouse or intimate partner' has the meaning given that term in section 2266(7);

"(5) the term 'strangling' means intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether such conduct results in any visible injury and regardless of whether there is any intent to kill or protractedly injure the victim; and

"(6) the term 'suffocating' means intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether such conduct results in any visible injury and regardless of whether there is any intent to kill or protractedly injure the victim.".

(e) INDIAN MAJOR CRIMES.—Section 1153(a) of title 18, United States Code, is amended by striking "assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title)" and inserting "a felony assault under section 113".

SEC. 5. EFFECTIVE DATES; PILOT PROJECT.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this new title shall take effect on the date of enactment of this Act.

(b) EFFECTIVE DATE FOR SPECIAL DOMESTIC-VIOLENCE CRIMINAL JURISDICTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (b), (c), (d), and (e) of section 1304 of title 25, United States Code, as added by section 2 of this new title, shall take effect on the date 2 years after the date of enactment of this Act.

(2) PILOT PROJECT.—

(A) IN GENERAL.—At any time within 2 years after the date of enactment of this Act, an Indian tribe may ask the Attorney General to designate the tribe as a participating tribe on an accelerated basis. The Attorney General (or his designee) may grant such a request after coordinating with the Secretary of the Interior (or his designee), consulting with Indian tribes, and concluding that the criminal-justice system of the requesting tribe has adequate safeguards in place to protect defendants' rights, consistent with section 1304(e) of title 25, United States Code, as added by section 2 of this new title.

(B) EFFECTIVE DATES FOR PILOT-PROJECT TRIBES.—An Indian tribe whose request is granted may commence exercising special domestic-violence criminal jurisdiction pursuant to subsections (b), (c), (d), and (e) of section 1304 of title 25, United States Code, as added by section 2 of this new title, on a date established by the Attorney General, after consultation with such tribe, but in no event later than the date 2 years after the date of enactment of this Act. The tribe may continue exercising such jurisdiction thereafter.

SEC. 6. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such a provision or amendment to any individual, entity, or circumstance, is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Act, the remaining amendments made by this Act, and the application of those provisions and amendments to individuals, entities, or circumstances other than the affected individual, entity, or circumstance shall not be affected.

SEC. 7. TECHNICAL AMENDMENTS.

(a) ASSAULTS.—Section 113(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "Assault with intent to commit murder, by imprisonment for not more than twenty years" and inserting "Assault with intent to commit murder or a felony under chapter 109A, by a fine under this title or imprisonment for not more than twenty years, or both";

(2) in paragraph (3), by striking "and without just cause or excuse" and by striking the comma immediately following those words; and

(3) in paragraph (7), by striking "fine" and inserting "a fine".

1 (b) REPEAT OFFENDERS.—Section 2265A(b)(1)(B) of title 18, United States Code, is
2 amended by inserting "or tribal" after "State".

Questions and Answers on Proposed Federal Legislation to Help Tribal Communities Combat Violence Against Native Women

The Department of Justice is proposing new Federal legislation to better protect women in tribal communities from violent crime. The following Questions and Answers explain the proposed legislation's overall purposes and its substantive provisions, section by section.

OVERVIEW

What are the key gaps in current law that the proposed legislation would fill?

The Department of Justice sees three major legal gaps that Congress could address, involving tribal criminal jurisdiction, tribal civil jurisdiction, and Federal criminal offenses.

First, the patchwork of Federal, state, and tribal criminal jurisdiction in Indian country has made it difficult for law enforcement and prosecutors to adequately address domestic violence — particularly misdemeanor domestic violence, such as simple assaults and criminal violations of protection orders. The Department therefore is proposing Federal legislation recognizing certain tribes' power to exercise concurrent criminal jurisdiction over domestic-violence cases, regardless of whether the defendant is Indian or non-Indian. Fundamentally, such legislation would build on the Tribal Law and Order Act of 2010 (TLOA). The philosophy behind TLOA was that tribal nations with sufficient resources and authority will be best able to address violence in their own communities; it offered additional authority to tribal courts and prosecutors if certain procedural protections were established.

Second, at least one Federal court has opined that tribes lack civil jurisdiction to issue and enforce protection orders against non-Indians who reside on tribal lands. That ruling undermines the ability of tribal courts to protect victims. Accordingly, the Department is proposing Federal legislation to confirm the intent of Congress in enacting the Violence Against Women Act of 2000 by clarifying that tribal courts have full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian.

Third, Federal prosecutors lack the necessary tools to combat domestic violence in Indian country. So the Department is proposing Federal legislation to provide a one-year offense for assaulting a person by striking, beating, or wounding; a five-year offense for assaulting a spouse, intimate partner, or dating partner, resulting in substantial bodily injury; and a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate.

How significant a problem is domestic violence in tribal communities?

Violence against Native women has reached epidemic rates. One regional survey conducted by University of Oklahoma researchers showed that nearly three out of five Native American women had been assaulted by their spouses or intimate partners. According to a nationwide survey funded by the National Institute of Justice (NIJ), one third of all American Indian women will be raped during their lifetimes. And an NIJ-funded analysis of death certificates found that, on some reservations, Native women are murdered at a rate more than ten times the national average. Tribal leaders, police officers, and prosecutors tell us of an all-too-familiar pattern of escalating violence that goes unaddressed, with beating after beating, each more severe than the last, ultimately leading to death or severe physical injury.

Something must be done to address this cycle of violence. For a host of reasons, the current legal structure for prosecuting domestic violence in Indian country is not well-suited to combating this pattern of escalating violence. Federal resources, which are often the only ones that can investigate and prosecute these crimes, are often far away and stretched thin. Federal law does not provide the tools needed to address the types of domestic or dating violence that elsewhere in the United States might lead to convictions and sentences ranging from approximately six months to five years — precisely the sorts of prosecutions that respond to the early instances of escalating violence against spouses or intimate partners.

Tribal governments — police, prosecutors, and courts — should be essential parts of the response to these crimes. But under current law, they lack the authority to address many of these crimes. Until recently, no matter how violent the offense, tribal courts could only sentence Indian offenders to one year in prison. Under the Tribal Law and Order Act (TLOA), landmark legislation that Congress enacted last year, tribal courts can now sentence Indian offenders for up to three years per offense, provided defendants are given proper procedural protections, including legal counsel. But tribal courts have no authority at all to prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. Tribal police officers who respond to a domestic-violence call, only to discover that the accused is non-Indian and therefore outside the tribe's criminal jurisdiction, often mistakenly believe they cannot even make an arrest. Not surprisingly, abusers who are not arrested are more likely to repeat, and escalate, their attacks. Research shows that law enforcement's failure to arrest and prosecute abusers both emboldens attackers and deters victims from reporting future incidents.
In short, the jurisdictional framework has left many serious acts of domestic violence and dating violence unprosecuted and unpunished.

Has the Department of Justice consulted with Indian tribes about this proposal?

Yes. Consistent with Executive Order 13175 and President Obama's November 5, 2009 Memorandum on tribal consultation, the Department of Justice has been consulting with tribal leaders about public safety generally and about violence against women specifically. We have discussed these issues at many sessions, including the Attorney General's listening conference in 2009, the tribal consultations that we held on Tribal Law and Order Act implementation in 2010, and our annual tribal consultations under the

Violence Against Women Act in Prior Lake in 2006, in Albuquerque in 2007, in Palm Springs in 2008, in St. Paul in 2009, and in Spokane last October.

Moreover, the Department held tribal consultations focused on this legislative proposal in Milwaukee on June 14, 2011, and by conference calls with tribal leaders on June 16 and 17, 2011. The Department also received extensive written comments on the proposal from tribal leaders and domestic-violence experts throughout the country.

All of these consultations — indeed, all of the Justice Department's work in this area, especially in the wake of the TLOA's enactment last year — has also involved close coordination across Federal agencies, including the Departments of the Interior and of Health and Human Services.

What were the main points that tribal leaders made during these consultations?

The common thread that ran through nearly all the tribal input focused on the need for greater tribal jurisdiction over domestic-violence cases — very much along the lines of what the Department of Justice is proposing here.

Specifically, tribal leaders expressed concern that the crime-fighting tools currently available to their prosecutors differ vastly, depending on the race of the domestic-violence perpetrator. If an Indian woman is battered by her husband or boyfriend, then the tribe typically can prosecute him if he is Indian. But absent an express Act of Congress, the tribe cannot prosecute a violently abusive husband or boyfriend if he is non-Indian. And recently, one Federal court went so far as to hold that, in some circumstances, a tribal court could not even enter a civil protection order against a non-Indian husband.

Faced with these criminal and civil jurisdictional limitations, tribal leaders repeatedly have told the Department that a tribe's ability to protect a woman from violent crime should not depend on her husband's or boyfriend's race, and that it is immoral for an Indian woman to be left vulnerable to violence and abuse simply because the man she married, the man she lives with, the man who fathered her children is not an Indian.

TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC VIOLENCE (SECTION 2)

What would section 2 of the proposed legislation — on "Tribal Jurisdiction over Crimes of Domestic Violence" — accomplish?

Section 2 would recognize certain tribes' concurrent criminal jurisdiction to investigate, prosecute, convict, and sentence persons who assault Indian spouses, intimate partners, or dating partners, or who violate protection orders, in Indian country.

Could any tribe be a "participating tribe"?

Any federally recognized Indian tribe could elect to become a "participating tribe," so long as (1) it exercises powers of self-government over an area of Indian country and (2) it adequately protects the rights of defendants. Those two requirements follow long-standing principles of Federal Indian law.

Why does the proposed legislation state that exercising this criminal jurisdiction is an "inherent power" of the tribe?

Under this proposed legislation, when a tribe prosecutes an accused perpetrator of domestic violence, it would be exercising an inherent tribal power, not a delegated Federal power. One practical consequence would be to render the Double Jeopardy Clause inapplicable to sequential prosecutions of the same act of domestic violence by the tribe and the Federal Government (just as the Clause is inapplicable to sequential prosecutions by a State and the Federal Government). For example, if a tribe unsuccessfully prosecuted a domestic-violence case under the authority recognized in this legislation, the Federal Government would not then be barred from proceeding with its own prosecution of the same defendant for a discrete Federal offense. That is the normal rule when prosecutions are brought by two separate sovereigns.

What does the proposed legislation mean in stating that tribes will exercise this jurisdiction "concurrently, not exclusively"?

Neither the United States nor any State would lose any criminal jurisdiction under this proposed legislation. The Federal and State governments could still prosecute the same crimes that they currently can prosecute. But in addition, tribes could prosecute some crimes that they cannot currently prosecute. In many parts of Indian country, this statutorily recognized tribal criminal jurisdiction would be concurrent with Federal jurisdiction under the General Crimes Act (also known as the Indian Country Crimes Act). In some parts of Indian country, however, it would be concurrent with State jurisdiction under Public Law 280 or an analogous statute.

Without this proposed legislation, do tribes have any criminal jurisdiction over domestic-violence cases?

Yes. Even without this new legislation, generally tribes already have criminal jurisdiction over domestic-violence and dating-violence crimes committed by Indians (but not by non-Indians) in Indian country. Because existing jurisdiction is expressly excluded from the proposed legislation's definition of "special domestic-violence criminal jurisdiction," existing tribal jurisdiction over crimes committed by Indians would be unaffected by this legislation.

What types of crimes would this proposed legislation cover?

The proposed legislation is narrowly tailored to cover three types of crimes:

- Domestic violence.
- Dating violence.

- Violations of protection orders.

Could a tribe use this new law to prosecute crimes that occur off the reservation and outside of Indian country?

No.

Why would protection orders need to be "enforceable" and "consistent with section 2265(b) of title 18, United States Code," to form the basis of a tribal criminal offense?

That language ensures that the person against whom the protection order was issued was given reasonable notice and an opportunity to be heard, which are essential for protecting the right to due process. If the accused had no chance of learning that a protection order was being issued against him, a violation of the order, by itself, would not be a criminal offense.

For a crime involving domestic violence, dating violence, or the violation of an enforceable protection order, would the specific elements of the criminal offense be determined by Federal law or by tribal law?

Tribal law.

What is the purpose of the subsection on "Dismissal of Certain Cases"?

This subsection clarifies that tribes would not have criminal jurisdiction over cases in which neither the accused nor the victim is Indian. Since at least the late nineteenth century, criminal cases involving only non-Indians have been understood to rest within the exclusive jurisdiction of the State where the offense occurred. This legislation would not alter that long-standing rule. Likewise, this subsection states that tribes would not have criminal jurisdiction over cases in which neither the accused nor the victim has sufficient ties to the tribe.

What rights of criminal defendants are protected by the Indian Civil Rights Act and therefore would be protected under this proposed legislation?

Since Congress enacted it in 1968, the Indian Civil Rights Act has protected individual liberties and constrained the powers of tribal governments in much the same ways that the Federal Constitution, especially the Bill of Rights and the Fourteenth Amendment, limits the powers of the Federal and State governments. The Indian Civil Rights Act protects the following rights, among others:

- The right against unreasonable search and seizures.
- The right not to be twice put in jeopardy for the same offense.
- The right not to be compelled to testify against oneself in a criminal case.
- The right to a speedy and public trial.
- The right to be informed of the nature and cause of the accusation in a criminal case.

- The right to be confronted with adverse witnesses.
- The right to compulsory process for obtaining witnesses in one's favor.
- The right to have the assistance of defense counsel, at one's own expense.
- The rights against excessive bail, excessive fines, and cruel and unusual punishments.
- The right to the equal protection of the tribe's laws.
- The right not to be deprived of liberty or property without due process of law.
- The right to a trial by jury of not less than six persons when accused of an offense punishable by imprisonment.
- The right to petition a Federal court for habeas corpus, to challenge the legality of one's detention by the tribe.

What are the "rights described in paragraphs (1) through (5) of section 1302(c)," which also would be protected under this proposed legislation?

In 2010, Congress passed the Tribal Law and Order Act, which (among other things) amended the Indian Civil Rights Act to allow tribal courts to impose longer sentences. In return, the 2010 amendments require tribal courts imposing longer sentences to undertake additional measures to safeguard defendants' rights. The Department's proposed legislation would apply these additional safeguards to domestic-violence cases with shorter sentences, as well:

- The right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution.
- The right of an indigent defendant to the assistance of a licensed defense attorney at the tribe's expense.
- The right to be tried by a judge with sufficient legal training who is licensed to practice law.
- The right to access the tribe's criminal laws, rules of evidence, and rules of criminal procedure.
- The right to an audio or other recording of the trial proceeding and a record of other criminal proceedings.

Under the proposed law, would a tribe exercising this jurisdiction be required to provide counsel for indigent defendants in all cases where imprisonment is imposed?

The proposed legislation would require participating tribes to provide all indigent non-Indian domestic-violence and dating-violence defendants with licensed defense counsel in any criminal proceeding where imprisonment is imposed, regardless of the length of the sentence. It is also quite possible that the Indian Civil Rights Act or tribal law would be interpreted to require that those same tribes then must provide appointed counsel to similarly situated Indian defendants.

Although certain indigent defendants would not have to pay for an attorney, the proposed legislation would authorize Federal grants to help tribes cover these costs.

What is the purpose of the constitutional catch-all provision?

In addition to the rights described in the Indian Civil Rights Act and the Tribal Law and Order Act, paragraph (3) of proposed section 1304(e) would require a participating tribe to provide the defendant with all rights whose protection would be required by the United States Constitution in order to allow that tribe to exercise criminal jurisdiction over the defendant. Given that paragraphs (1) and (2) of this proposed section would already protect most of the rights that a criminal defendant in State (or Federal) court has under the Federal Constitution, the set of additional rights, if any, that would be captured by this paragraph will ultimately be fleshed out by tribal courts and by Federal courts reviewing habeas corpus petitions. One indirect effect of this constitutional catch-all provision might be to encourage participating tribes (and tribes that aspire to participate) to provide all the same protections that would be provided in Federal and State courts.

What avenues for appellate or habeas review would be available to defendants?

Defendants typically would have a direct right to appeal to a tribal (or intertribal) appellate court. And the Indian Civil Rights Act gives any defendant detained by order of an Indian tribe the right to seek release by petitioning a Federal district court for a writ of habeas corpus. There would, however, be no direct right of appeal to a Federal court.

What is the purpose of the subsection on "Petitions to Stay Detention"?

This subsection, which would apply to any habeas corpus proceeding under the Indian Civil Rights Act, would clarify the current legal standards for determining whether a person can be released from tribal detention prior to final resolution of his habeas petition.

Why does the bill authorize Federal grants to tribal governments?

Expanding tribal criminal jurisdiction to cover more perpetrators of domestic violence would tax the already scarce resources of most tribes that might wish to participate. Therefore, the proposed legislation would authorize a new grant program to support tribes that are or wish to become participating tribes.

TRIBAL PROTECTION ORDERS (SECTION 3)

What would section 3 of the proposed legislation — on "Tribal Protection Orders" — accomplish?

Section 3 would confirm the intent of Congress in enacting the Violence Against Women Act of 2000 by clarifying that every tribe has full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian. This section would effectively reverse *Martinez v. Martinez*, 2008 WL 5262793, No. C08-55-3 FDB (W.D.

Wash. Dec 16, 2008), which held that an Indian tribe lacked authority to enter a protection order for a nonmember Indian against a non-Indian residing on non-Indian fee land within the reservation.

AMENDMENTS TO THE FEDERAL ASSAULT STATUTE (SECTION 4)

What would section 4 of the proposed legislation — on "Amendments to the Federal Assault Statute" — accomplish?

Section 4 would amend the Federal Criminal Code to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating; a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily injury; and a one-year offense for assaulting a person by striking, beating, or wounding. (The amendments would not directly affect tribal prosecutions.)

Why are amendments to the Federal assault statute needed?

The proposed legislation would enable Federal prosecutors more effectively to combat three types of assault frequently committed against women in Indian country — assault by strangling or suffocating; assault resulting in substantial bodily injury; and assault by striking, beating, or wounding.

Existing Federal law provides a six-month misdemeanor assault or assault-and-battery offense that can be charged against a non-Indian (but not against an Indian) who commits an act of domestic violence against an Indian victim. (A similar crime committed by an Indian would fall within the exclusive jurisdiction of the tribe.) A Federal prosecutor typically can charge a *felony* offense (against either an Indian or a non-Indian defendant) only if the victim's injuries rise to the level of "serious bodily injury," which is significantly more severe than "substantial bodily injury."

So, in cases involving any of these three types of assaults — (1) assault by strangling or suffocating; (2) assault resulting in substantial (but not serious) bodily injury; and (3) assault by striking, beating, or wounding — Federal prosecutors today often find that they cannot seek sentences in excess of six months. And where both the defendant and the victim are Indian, Federal courts may lack jurisdiction altogether.

How would the proposed amendments to the Federal assault statute compare to State criminal laws?

In general, Federal criminal law has not developed over time in the same manner as State criminal laws, which have recognized the need for escalating responses to specific acts of domestic and dating violence. Amending the Federal Criminal Code to make it more consistent with State laws in this area where the Federal Government (and not the State) has jurisdiction would simply ensure that perpetrators would be subject to similar potential punishments regardless of where they commit their crimes. The maximum

sentences proposed here are in line with the types of sentences that would be available in State courts across the Nation if the crime occurred other than in Indian country.

What would the language on "Assaults by Striking, Beating, or Wounding" accomplish?

This language would increase the maximum sentence from six months to one year for an assault by striking, beating, or wounding, committed by a non-Indian against an Indian in Indian country. (Similar assaults by Indians, committed in Indian country, would remain within the tribe's exclusive jurisdiction.) Although the Federal offense would remain a misdemeanor, increasing the maximum sentence to one year would reflect the fact that this is a serious offense that often forms the first or second rung on a ladder to more severe acts of domestic violence.

What would the language on "Assaults Resulting in Substantial Bodily Injury" accomplish?

These assaults sometimes form the next several rungs on the ladder of escalating domestic violence, but they too are inadequately covered today by the Federal Criminal Code. Under current law, an assault resulting in "serious" bodily injury is subject to a maximum ten-year sentence; and an assault resulting in "substantial" bodily injury (which is less severe) is subject to a maximum five-year sentence if the victim is less than 16 years old. But if an adult Indian victim suffers a substantial bodily injury at the hands of her spouse or intimate partner or dating partner, typically the sentence will be capped at six months if the perpetrator is non-Indian and there will be no Federal jurisdiction at all if the perpetrator is Indian. The proposed legislation would fill this gap by amending the Federal Criminal Code to provide a five-year offense for assault resulting in substantial bodily injury to a spouse, intimate partner, or dating partner.

What would the language on "Assaults by Strangling or Suffocating" accomplish?

It would amend the Federal Criminal Code to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate. Strangling and suffocating — conduct that is not uncommon in intimate-partner cases — carry a high risk of death. But the severity of these offenses is frequently overlooked because there may be no visible external injuries on the victim. As with assaults resulting in substantial bodily injury, Federal prosecutors need the tools to deal with these crimes as felonies, with sentences potentially far exceeding the six-month maximum that often applies today.

Why would the proposed legislation amend the Major Crimes Act?

Federal prosecutors use the Major Crimes Act to prosecute Indians for major crimes committed against Indian and non-Indian victims. This amendment would simplify the Major Crimes Act to cover all felony assaults under section 113 of the Federal Criminal Code, as amended. That would include the two new felony offenses discussed above — assaults resulting in substantial bodily injury to a spouse, intimate partner, or dating

partner; and assaults upon a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate. It also would include a felony assault that currently is omitted from the Major Crimes Act: assault with intent to commit a felony other than murder (which is punishable by a maximum ten-year sentence). Without this amendment to the Major Crimes Act, Federal prosecutors could not charge any of these three felonies when the perpetrator is an Indian. Assault by striking, beating, or wounding, which would have a maximum sentence of twelve months under the proposed legislation, would remain a misdemeanor and would not be covered by the Major Crimes Act.

EFFECTIVE DATES AND THE PILOT PROJECT (SECTION 5)

What would section 5 of the proposed legislation — on "Effective Dates" and a "Pilot Project" — accomplish?

Section 5 would set the effective dates for each part of the proposed legislation and establish a pilot project for tribes wishing to exercise jurisdiction over crimes of domestic violence on an accelerated basis.

When would the reforms in this proposed legislation take effect?

Most of the proposed legislation would take effect immediately upon enactment. But four subsections that form the core of the provision on tribal criminal jurisdiction would generally take effect two years after enactment, to give tribes time to amend their codes and procedures as necessary to exercise this expanded jurisdiction. However, if a tribe believes it is ready to proceed in less than two years, it can request an earlier start date from the Attorney General, as part of a pilot project.

How would the pilot project work?

The tribes wishing to participate in the pilot project would apply to the Attorney General, who then would coordinate with the Department of the Interior and consult with the tribes. If the Attorney General concluded that a particular tribe's criminal-justice system had adequate safeguards in place to protect defendants' rights, then he could grant an earlier starting date for the tribe's exercise of this statutorily recognized criminal jurisdiction.