

111TH CONGRESS
1ST SESSION

S. 1740

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2009

Mrs. MURRAY (for herself, Mr. BROWN, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Security and Financial Empowerment (SAFE) Act”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 101. Purposes.

Sec. 102. Entitlement to emergency leave for addressing domestic violence, dating violence, sexual assault, or stalking.

Sec. 103. Existing leave usable for addressing domestic violence, dating violence, sexual assault, or stalking.

Sec. 104. Emergency benefits.

Sec. 105. Effect on other laws and employment benefits.

Sec. 106. Regulations.

Sec. 107. Conforming amendment.

Sec. 108. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 201. Purposes.

Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS’ EMPLOYMENT SUSTAINABILITY

Sec. 301. Short title.

Sec. 302. Purposes.

Sec. 303. Prohibited discriminatory acts.

Sec. 304. Enforcement.

Sec. 305. Attorney’s fees.

Sec. 306. Regulations.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

Sec. 401. Short title.

Sec. 402. Definitions.

Sec. 403. Discriminatory acts prohibited.

Sec. 404. Insurance protocols for subjects of abuse.

Sec. 405. Reasons for adverse actions.

Sec. 406. Life insurance.

Sec. 407. Subrogation without consent prohibited.

Sec. 408. Enforcement.

Sec. 409. Effective date.

TITLE V—SEVERABILITY

Sec. 501. Severability.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

- 3 (1) Domestic violence, dating violence, sexual
- 4 assault, and stalking are widespread in the United

1 States, affecting individuals of virtually every racial,
2 ethnic, age, and socioeconomic group. Women are
3 disproportionately the victims of such forms of vio-
4 lence, as nearly 1 in 4 female victims of violent
5 crime (23 percent) were victimized by an intimate
6 partner.

7 (2) A recent Department of Justice study re-
8 ports that 85 percent of victims of domestic violence
9 are female, while 15 percent of victims are male.
10 One out of every 4 women will experience domestic
11 or dating violence in their lifetime.

12 (3) Nearly 7,800,000 women in the United
13 States have been raped by an intimate partner at
14 some point in their lives. A new study by the De-
15 partment of Justice found that 64 percent of rapes
16 and sexual assaults experienced by female victims
17 were committed by non-strangers such as intimate
18 partners, friends, or family members.

19 (4) According to a recent Government report,
20 there were 248,300 rapes and sexual assaults in the
21 United States in 2007, up from 190,600 in 2005,
22 with 90 percent of the rapes perpetrated against fe-
23 male victims.

24 (5) One in every 12 women and 1 in every 45
25 men have been stalked in their lifetime. A new study

1 by the Department of Justice indicates 5,800,000
2 Americans were victims of stalking and harassment
3 in 2006, and that nearly 3 out of every 4 victims
4 surveyed knew their offender in some capacity.
5 Stalking victims most often identified the stalker as
6 a former intimate (21.5 percent), or a friend, room-
7 mate, or neighbor (16.4 percent).

8 (6) A recent Department of Justice study con-
9 cluded that violence against women occurred more
10 often in disadvantaged neighborhoods, and that
11 women in disadvantaged neighborhoods were twice
12 as likely to be victims of domestic violence than
13 those in more financially secure neighborhoods. The
14 rate of severe violence experienced by women in dis-
15 advantaged neighborhoods is 3 times that of women
16 who experience violence in nondisadvantaged neigh-
17 borhoods.

18 (7) According to the National Institute of Jus-
19 tice, crime accounts for an estimated
20 \$450,000,000,000 each year in medical expenses,
21 lost earnings, social service costs, pain, suffering,
22 and reduced quality of life for victims, which harms
23 the Nation's productivity and drains the Nation's re-
24 sources. Of this amount, violent crime accounts for
25 \$426,000,000,000 per year.

1 (8) Rape exacts the highest costs per victim of
2 any criminal offense, accounting for
3 \$127,000,000,000 per year in related costs.

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

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

13 (11) Female murder victims are substantially
14 more likely than male murder victims to have been
15 killed by an intimate partner. About $\frac{1}{3}$ of female
16 murder victims, and about 4 percent of male murder
17 victims, were killed by an intimate partner.

18 (12) Sixty-one percent of senior executives re-
19 cently surveyed said domestic violence has a harmful
20 effect on their company's productivity, 70 percent
21 said domestic violence negatively affects attendance,
22 and 55 percent said domestic violence increases
23 health care costs.

24 (13) Seventy-eight percent of human resources
25 professionals consider partner violence a workplace

1 issue. However, more than 70 percent of United
2 States workplaces have no formal program or policy
3 that addresses workplace violence, let alone domestic
4 violence. In fact, only 4 percent of employers pro-
5 vided training on domestic violence.

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

9 (15) The Bureau of National Affairs has esti-
10 mated that domestic violence costs United States
11 employers between \$3,000,000,000 and
12 \$5,000,000,000 annually in lost time and produc-
13 tivity, while other reports have estimated the cost at
14 between \$5,800,000,000 and \$13,000,000,000 annu-
15 ally.

16 (16) Medical costs in the United States for do-
17 mestic violence have been estimated to be
18 \$31,000,000,000 per year. The medical cost associ-
19 ated with each incident of domestic violence ranges
20 from \$387 to \$948, including costs of health care
21 and mental health services.

22 (17) A study released in 2007 calculated that
23 violence cost the United States \$70,000,000,000 an-
24 nually, with \$64,400,000,000 in lost productivity
25 and \$5,600,000,000 spent on medical care. Annu-

1 ally, intimate partner violence costs the United
2 States \$33,000,000,000 in lost productivity and
3 \$4,000,000,000 for medical treatment.

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

9 (19) Studies indicate that one of the best pre-
10 dictors of whether a victim will be able to stay away
11 from her abuser is her degree of economic independ-
12 ence. However, domestic violence, dating violence,
13 sexual assault, and stalking often negatively impact
14 a victim's ability to maintain employment.

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

21 (21) Victims of domestic violence also fre-
22 quently miss work due to injuries, court dates, and
23 safety concerns that require legal protections. Vic-
24 tims of intimate partner violence lose 8,000,000
25 days of paid work each year, the equivalent of over

1 32,000 full-time jobs and 5,600,000 days of house-
2 hold productivity.

3 (22) Victims of domestic violence, dating vio-
4 lence, sexual assault, and stalking are particularly
5 vulnerable to changes in employment, pay, and bene-
6 fits, and as a result of their desperate need for eco-
7 nomic stability, are in particular need of legal pro-
8 tection.

9 (23) According to a 2007 report by the Journal
10 of Interpersonal Violence and a recent study in Or-
11 egon, between 15.2 and 27.6 percent of women sur-
12 veyed lost a job because of abuse.

13 (24) Domestic violence also affects abusers'
14 ability to work. Recent studies in Maine and Oregon
15 indicate that between 48 and 57 percent of abusers
16 reported having difficulty concentrating at work, and
17 between 42 percent and 51.8 percent of offenders
18 were either late or missed work entirely because of
19 their abusive behavior.

20 (25) Abusers frequently seek to exert financial
21 control over their partners by actively interfering
22 with their ability to work, including preventing their
23 partners from going to work, harassing their part-
24 ners at work, limiting the access of their partners to

1 cash or transportation, and sabotaging the child care
2 arrangements of their partners.

3 (26) Abusers often harass their victims at work
4 because it is an easy way to access them. A recent
5 study by the Journal of Interpersonal Violence
6 shows that between 56 and 88 percent of surveyed
7 women experienced on-the-job harassment by their
8 abusive partner.

9 (27) Stalkers harass and terrorize their victims
10 by spying on them, standing outside their places of
11 work or homes, making unwanted phone calls, send-
12 ing or leaving unwanted letters or items, or vandal-
13 izing property.

14 (28) A new study by the Department of Justice
15 reveals that of the 79 percent of stalking victims
16 who were employed, 1 in 8 lost time from work.
17 More than half of those victims surveyed lost 5 or
18 more days from work and 130,000 victims reported
19 that they had been fired from or asked to leave their
20 jobs due to stalking.

21 (29) The prevalence of sexual assault and other
22 violence against women at work is also dramatic, as
23 approximately 29,000 women are raped or sexually
24 assaulted in the workplace each year.

1 (30) Sexual assault, whether occurring in or out
2 of the workplace, can impair an employee’s work
3 performance, require time away from work, and un-
4 dermine the employee’s ability to maintain a job. Al-
5 most 50 percent of sexual assault survivors lose their
6 jobs or are forced to quit in the aftermath of the as-
7 saults. An estimated 24 to 30 percent of abused
8 working women lose their jobs due to their abuse.

9 (31) Domestic and sexual violence victims have
10 been subjected to discrimination by private and
11 State employers, including discrimination motivated
12 by gender and stereotypical notions regarding
13 women.

14 (32) Domestic violence victims and third parties
15 who help them have been subjected to discriminatory
16 practices by health, life, disability, and property and
17 casualty insurers, as well as employers who self-in-
18 sure employee benefits, who have denied or canceled
19 coverage, rejected claims, and raised rates based on
20 domestic violence. Although some State legislatures
21 have tried to address such practices, the scope of
22 protection afforded by the laws adopted varies in
23 each State, with many States failing to address the
24 problem comprehensively. Moreover, Federal law
25 prevents States from protecting the almost 40 per-

1 cent of employees whose employers self-insure em-
2 ployee benefits.

3 (33) With the exception of Illinois, no States
4 prohibit employment discrimination against all vic-
5 tims of domestic violence, sexual assault, or stalking.

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

9 (A) obtain orders of protection;

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

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

14 (35) Only 12 States provide domestic violence
15 victims with leave from work to go to court, to see
16 a doctor, or to take other steps to address the do-
17 mestic violence in their lives.

18 (36) Only 29 States and the District of Colum-
19 bia have laws that explicitly provide unemployment
20 insurance to domestic violence victims in certain cir-
21 cumstances, and none of the laws explicitly cover vic-
22 tims of sexual assault or stalking.

23 (37) Existing Federal law does not explicitly—

24 (A) authorize victims of domestic violence,
25 dating violence, sexual assault, or stalking to

1 take leave from work to seek legal assistance
2 and redress, counseling, or assistance with safe-
3 ty planning activities;

4 (B) address the eligibility of victims of do-
5 mestic violence, dating violence, sexual assault,
6 or stalking for unemployment compensation;

7 (C) prohibit employment discrimination
8 against actual or perceived victims of domestic
9 violence, dating violence, sexual assault, or
10 stalking;

11 (D) prohibit insurers and employers who
12 self-insure employee benefits from discrimi-
13 nating against domestic violence victims and
14 those who help them in determining eligibility,
15 rates charged, and standards for payment of
16 claims; or

17 (E) prohibit insurers from disclosing infor-
18 mation about abuse and the location of the vic-
19 tims through insurance databases and other
20 means.

21 **SEC. 3. DEFINITIONS.**

22 In this Act, except as otherwise expressly provided:

23 (1) **COMMERCE.**—The terms “commerce” and
24 “industry or activity affecting commerce” have the
25 meanings given the terms in section 101 of the

1 Family and Medical Leave Act of 1993 (29 U.S.C.
2 2611).

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

9 (3) DATING VIOLENCE.—The term “dating vio-
10 lence” has the meaning given the term in section
11 40002 of the Violence Against Women Act of 1994
12 (42 U.S.C. 13925).

13 (4) DOMESTIC VIOLENCE.—The term “domestic
14 violence” has the meaning given the term in section
15 40002 of the Violence Against Women Act of 1994
16 (42 U.S.C. 13925).

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

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

24 (B) collaborates and coordinates activities
25 with Federal, State, and local entities to further

1 the purposes of domestic violence intervention
2 and prevention; and

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

8 (6) ELECTRONIC COMMUNICATIONS.—The term
9 “electronic communications” includes communica-
10 tions via telephone (including mobile phone), com-
11 puter, e-mail, video recorder, fax machine, telex, or
12 pager.

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

17 (8) EMPLOYEE.—

18 (A) IN GENERAL.—The term “employee”
19 means any person employed by an employer. In
20 the case of an individual employed by a public
21 agency, such term means an individual em-
22 ployed as described in section 3(e)(2) of the
23 Fair Labor Standards Act of 1938 (29 U.S.C.
24 203(e)(2)).

1 (B) BASIS.—The term includes a person
2 employed as described in subparagraph (A) on
3 a full-time or part-time basis, for a fixed time
4 period, on a temporary basis, pursuant to a de-
5 tail, or as a participant in a work assignment
6 as a condition of receipt of Federal or State in-
7 come-based public assistance.

8 (9) EMPLOYER.—The term “employer”—

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

13 (B) includes any person acting directly or
14 indirectly in the interest of an employer in rela-
15 tion to an employee, and includes a public agen-
16 cy that employs individuals as described in sec-
17 tion 3(e)(2) of the Fair Labor Standards Act of
18 1938, but does not include any labor organiza-
19 tion (other than when acting as an employer) or
20 anyone acting in the capacity of officer or agent
21 of such labor organization.

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

1 insurance, sick leave, annual leave, educational bene-
2 fits, and pensions, regardless of whether such bene-
3 fits are provided by a practice or written policy of
4 an employer or through an “employee benefit plan”,
5 as defined in section 3(3) of the Employee Retirement
6 Income Security Act of 1974 (29 U.S.C.
7 1002(3)).

8 (11) FAMILY OR HOUSEHOLD MEMBER.—The
9 term “family or household member”, used with re-
10 spect to a person, means a nonabusive individual
11 who is a spouse, former spouse, parent, son or
12 daughter, or person residing or formerly residing in
13 the same dwelling unit as the person.

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

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

21 (14) PUBLIC AGENCY.—The term “public agen-
22 cy” has the meaning given the term in section 3 of
23 the Fair Labor Standards Act of 1938 (29 U.S.C.
24 203).

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

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

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

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

13 (19) SEXUAL ASSAULT.—The term “sexual as-
14 sault” has the meaning given the term in section
15 40002 of the Violence Against Women Act of 1994
16 (42 U.S.C. 13925).

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

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

23 (B) collaborates and coordinates activities
24 with Federal, State, and local entities to further

1 the purposes of sexual assault intervention and
2 prevention; and

3 (C) among other activities, provides train-
4 ing and technical assistance to entities carrying
5 out sexual assault programs within a State, ter-
6 ritory, political subdivision, or area under Fed-
7 eral authority.

8 (21) STALKING.—The term “stalking” has the
9 meaning given the term in section 40002 of the Vio-
10 lence Against Women Act of 1994 (42 U.S.C.
11 13925).

12 (22) VICTIM OF DOMESTIC VIOLENCE, DATING
13 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The
14 term “victim of domestic violence, dating violence,
15 sexual assault, or stalking” includes a person who
16 has been a victim of domestic violence, dating vio-
17 lence, sexual assault, or stalking and a person whose
18 family or household member has been a victim of do-
19 mestic violence, dating violence, sexual assault, or
20 stalking.

21 (23) VICTIM SERVICES ORGANIZATION.—The
22 term “victim services organization” means a non-
23 profit, nongovernmental organization that provides
24 assistance to victims of domestic violence, dating vio-
25 lence, sexual assault, or stalking, or to advocates for

1 such victims, including a rape crisis center, an orga-
2 nization carrying out a domestic violence program,
3 an organization operating a shelter or providing
4 counseling services, or an organization providing as-
5 sistance through the legal process.

6 **TITLE I—ENTITLEMENT TO**
7 **EMERGENCY LEAVE FOR AD-**
8 **DRESSING DOMESTIC VIO-**
9 **LENCE, DATING VIOLENCE,**
10 **SEXUAL ASSAULT, OR STALK-**
11 **ING**

12 **SEC. 101. PURPOSES.**

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

19 (1) to promote the national interest in reducing
20 domestic violence, dating violence, sexual assault,
21 and stalking by enabling victims of domestic vio-
22 lence, dating violence, sexual assault, or stalking to
23 maintain the financial independence necessary to
24 leave abusive situations, achieve safety, and mini-
25 mize the physical and emotional injuries from do-

1 mestic violence, dating violence, sexual assault, or
2 stalking, and to reduce the devastating economic
3 consequences of domestic violence, dating violence,
4 sexual assault, or stalking to employers and employ-
5 ees;

6 (2) to promote the national interest in ensuring
7 that victims of domestic violence, dating violence,
8 sexual assault, or stalking can recover from and cope
9 with the effects of domestic violence, dating violence,
10 sexual assault, or stalking, and participate in crimi-
11 nal and civil justice processes, without fear of ad-
12 verse economic consequences from their employers;

13 (3) to ensure that victims of domestic violence,
14 dating violence, sexual assault, or stalking can re-
15 cover from and cope with the effects of domestic vio-
16 lence, dating violence, sexual assault, or stalking,
17 and participate in criminal and civil justice proc-
18 esses, without fear of adverse economic consequences
19 with respect to public benefits;

20 (4) to promote the purposes of the 14th amend-
21 ment by preventing sex-based discrimination and
22 discrimination against victims of domestic violence,
23 dating violence, sexual assault, or stalking in em-
24 ployment leave, by addressing the failure of existing
25 laws to protect the employment rights of victims of

1 domestic violence, dating violence, sexual assault, or
2 stalking, by protecting their civil and economic
3 rights, and by furthering the equal opportunity of
4 women for economic self-sufficiency and employment
5 free from discrimination;

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

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

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

21 (A) entitling victims of domestic violence,
22 dating violence, sexual assault, or stalking to
23 take leave from their employment to seek med-
24 ical help, legal assistance, counseling, safety

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

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

9 **SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR AD-**
10 **DRESSING DOMESTIC VIOLENCE, DATING VI-**
11 **OLENCE, SEXUAL ASSAULT, OR STALKING.**

12 (a) LEAVE REQUIREMENT.—

13 (1) BASIS.—An employee who is a victim of do-
14 mestic violence, dating violence, sexual assault, or
15 stalking may take leave from work to address do-
16 mestic violence, dating violence, sexual assault, or
17 stalking, by—

18 (A) seeking medical attention for, or recov-
19 ering from, physical or psychological injuries
20 caused by domestic violence, dating violence,
21 sexual assault, or stalking to the employee or
22 the employee’s family or household member;

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

1 (C) obtaining psychological or other coun-
2 seling for the employee or the employee's family
3 or household member;

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

11 (E) seeking legal assistance or remedies to
12 ensure the health and safety of the employee or
13 the employee's family or household member, in-
14 cluding preparing for or participating in any
15 civil or criminal legal proceeding related to or
16 derived from domestic violence, dating violence,
17 sexual assault, or stalking.

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

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

24 (b) NOTICE.—The employee shall provide the em-
25 ployer with reasonable notice of the employee's intention

1 to take the leave, unless providing such notice is not prac-
2 ticable.

3 (c) CERTIFICATION.—

4 (1) IN GENERAL.—The employer may require
5 the employee to provide certification to the employer,
6 within a reasonable period after the employer re-
7 quests the certification, that—

8 (A) the employee or the employee’s family
9 or household member is a victim of domestic vi-
10 olence, dating violence, sexual assault, or stalk-
11 ing; and

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

14 (2) CONTENTS.—An employee may satisfy the
15 certification requirement of paragraph (1) by pro-
16 viding to the employer—

17 (A) a sworn statement of the employee;

18 (B) documentation from an employee,
19 agent, or volunteer of a victim services organi-
20 zation, an attorney, a member of the clergy, or
21 a medical or other professional, from whom the
22 employee or the employee’s family or household
23 member has sought assistance in addressing do-
24 mestic violence, dating violence, sexual assault,

1 or stalking and the effects of domestic violence,
2 dating violence, sexual assault, or stalking;

3 (C) a police or court record; or

4 (D) other corroborating evidence.

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

12 (1) requested or consented to by the employee
13 in writing; or

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

16 (e) EMPLOYMENT AND BENEFITS.—

17 (1) RESTORATION TO POSITION.—

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

23 (i) to be restored by the employer to
24 the position of employment held by the em-
25 ployee when the leave commenced; or

1 (ii) to be restored to an equivalent po-
2 sition with equivalent employment benefits,
3 pay, and other terms and conditions of em-
4 ployment.

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

9 (C) LIMITATIONS.—Nothing in this sub-
10 section shall be construed to entitle any re-
11 stored employee to—

12 (i) the accrual of any seniority or em-
13 ployment benefits during any period of
14 leave; or

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

20 (D) CONSTRUCTION.—Nothing in this
21 paragraph shall be construed to prohibit an em-
22 ployer from requiring an employee on leave
23 under this section to report periodically to the
24 employer on the status and intention of the em-
25 ployee to return to work.

1 (2) EXEMPTION CONCERNING CERTAIN HIGHLY
2 COMPENSATED EMPLOYEES.—

3 (A) DENIAL OF RESTORATION.—An em-
4 ployer may deny restoration under paragraph
5 (1) to any employee described in subparagraph
6 (B) if—

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

10 (ii) the employer notifies the employee
11 of the intent of the employer to deny res-
12 toration on such basis at the time the em-
13 ployer determines that such injury would
14 occur; and

15 (iii) in any case in which the leave has
16 commenced, the employee elects not to re-
17 turn to employment after receiving such
18 notice.

19 (B) AFFECTED EMPLOYEES.—An employee
20 referred to in subparagraph (A) is a salaried
21 employee who is among the highest paid 10 per-
22 cent of the employees employed by the employer
23 within 75 miles of the facility at which the em-
24 ployee is employed.

25 (3) MAINTENANCE OF HEALTH BENEFITS.—

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

11 (B) FAILURE TO RETURN FROM LEAVE.—
12 The employer may recover the premium that
13 the employer paid for maintaining coverage for
14 the employee under such group health plan dur-
15 ing any period of leave under this section if—

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

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

22 (I) the continuation of, recur-
23 rence of, or onset of an episode of do-
24 mestic violence, dating violence, sexual
25 assault, or stalking, that entitles the

1 employee to leave pursuant to this
2 section; or

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

5 (C) CERTIFICATION.—

6 (i) ISSUANCE.—An employer may re-
7 quire an employee who claims that the em-
8 ployee is unable to return to work because
9 of a reason described in subclause (I) or
10 (II) of subparagraph (B)(ii) to provide,
11 within a reasonable period after making
12 the claim, certification to the employer
13 that the employee is unable to return to
14 work because of such reason.

15 (ii) CONTENTS.—An employee may
16 satisfy the certification requirement in
17 clause (i) by providing to the employer—

18 (I) a sworn statement of the em-
19 ployee;

20 (II) documentation from an em-
21 ployee, agent, or volunteer of a victim
22 services organization, an attorney, a
23 member of the clergy, or a medical or
24 other professional, from whom the
25 employee or the employee's family or

1 household member has sought assist-
2 ance in addressing domestic violence,
3 dating violence, sexual assault, or
4 stalking and the effects of domestic
5 violence, dating violence, sexual as-
6 sault, or stalking;

7 (III) a police or court record; or

8 (IV) other corroborating evi-
9 dence.

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

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

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

24 (f) PROHIBITED ACTS.—

25 (1) INTERFERENCE WITH RIGHTS.—

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

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

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

15 (ii) opposed any practice made unlaw-
16 ful by this section.

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

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

3 (ii) opposed any practice made unlaw-
4 ful by this section.

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

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

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

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

21 (g) ENFORCEMENT.—

22 (1) CIVIL ACTION BY AFFECTED INDIVID-
23 UALS.—

1 (A) LIABILITY.—Any employer that vio-
2 lates subsection (f) shall be liable to any indi-
3 vidual affected—

4 (i) for damages equal to—

5 (I) the amount of—

6 (aa) any wages, salary, em-
7 ployment benefits, or other com-
8 pensation denied or lost to such
9 individual by reason of the viola-
10 tion; or

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

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

21 (III) an additional amount as liq-
22 uidated damages equal to the sum of
23 the amount described in subclause (I)
24 and the interest described in sub-
25 clause (II), except that if an employer

1 that has violated subsection (f) proves
2 to the satisfaction of the court that
3 the act or omission that violated sub-
4 section (f) was in good faith and that
5 the employer had reasonable grounds
6 for believing that the act or omission
7 was not a violation of subsection (f),
8 such court may, in the discretion of
9 the court, reduce the amount of the li-
10 ability to the amount and interest de-
11 termined under subclauses (I) and
12 (II), respectively; and

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

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

22 (i) the individuals; or

23 (ii) the individuals and other individ-
24 uals similarly situated.

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

7 (D) LIMITATIONS.—The right provided by
8 subparagraph (B) to bring an action by or on
9 behalf of any affected individual shall termi-
10 nate—

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

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

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

4 (2) ACTION BY THE SECRETARY.—

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

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

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

1 (3) LIMITATION.—

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

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

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

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

22 (A) to restrain violations of subsection (f),
23 including the restraint of any withholding of
24 payment of wages, salary, employment benefits,

1 or other compensation, plus interest, found by
2 the court to be due to affected individuals; or

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

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

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

17 (7) LIBRARY OF CONGRESS.—Notwithstanding
18 any other provision of this subsection, in the case of
19 the Library of Congress, the authority of the Sec-
20 retary under this subsection shall be exercised by the
21 Librarian of Congress.

22 (8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

23 (A) AGENCIES.—Notwithstanding any
24 other provision of this subsection, in the case of
25 a public agency that employs individuals as de-

1 scribed in subparagraph (A) or (B) of section
2 3(e)(2) of the Fair Labor Standards Act of
3 1938 (29 U.S.C. 203(e)(2)) (other than an en-
4 tity of the legislative branch of the Federal
5 Government), subparagraph (B) shall apply.

6 (B) AUTHORITY.—In the case described in
7 subparagraph (A), the powers, remedies, and
8 procedures provided in the case of a violation of
9 chapter 63 of title 5, United States Code, in
10 that title to an employing agency, in chapter 12
11 of that title to the Merit Systems Protection
12 Board, or in that title to any person alleging a
13 violation of chapter 63 of that title, shall be the
14 powers, remedies, and procedures this sub-
15 section provides in the case of a violation of
16 subsection (f) to that agency, that Board, or
17 any person alleging a violation of subsection (f),
18 respectively, against an employee who is such
19 an individual.

20 (9) PUBLIC AGENCIES PROVIDING PUBLIC AS-
21 SISTANCE.—Consistent with regulations prescribed
22 under section 106(d), the President shall ensure that
23 any public agency that violates subsection (f)(1)(C),
24 or subsection (f)(2) by discriminating as described in
25 subsection (f)(1)(C), shall provide to any individual

1 who receives a less favorable amount, term, or condi-
 2 tion of public assistance as a result of the viola-
 3 tion—

4 (A)(i) the amount of any public assistance
 5 denied or lost to such individual by reason of
 6 the violation; and

7 (ii) the interest on the amount described in
 8 clause (i); and

9 (B) such equitable relief as may be appro-
 10 priate.

11 **SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-**
 12 **MESTIC VIOLENCE, DATING VIOLENCE, SEX-**
 13 **UAL ASSAULT, OR STALKING.**

14 An employee who is entitled to take paid or unpaid
 15 leave (including family, medical, sick, annual, personal, or
 16 similar leave) from employment, pursuant to State or local
 17 law, a collective bargaining agreement, or an employment
 18 benefits program or plan, may elect to substitute any pe-
 19 riod of such leave for an equivalent period of leave pro-
 20 vided under section 102.

21 **SEC. 104. EMERGENCY BENEFITS.**

22 (a) IN GENERAL.—A State may use funds provided
 23 to the State under part A of title IV of the Social Security
 24 Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-

1 term emergency benefits to an individual for any period
2 of leave the individual takes pursuant to section 102.

3 (b) ELIGIBILITY.—In calculating the eligibility of an
4 individual for such emergency benefits, the State shall
5 count only the cash available or accessible to the indi-
6 vidual.

7 (c) TIMING.—

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

11 (2) BENEFITS.—The State shall provide bene-
12 fits to an eligible applicant under paragraph (1) on
13 an expedited basis, and not later than 7 days after
14 the applicant submits an application under para-
15 graph (1).

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

19 “(l) AUTHORITY TO PROVIDE EMERGENCY BENE-
20 FITS.—A State that receives a grant under section 403
21 may use the grant to provide nonrecurrent short-term
22 emergency benefits, in accordance with section 104 of the
23 Survivors’ Empowerment and Economic Security Act, to
24 individuals who take leave pursuant to section 102 of that
25 Act, without regard to whether the individuals receive as-

1 sistance under the State program funded under this
2 part.”.

3 **SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BEN-**
4 **EFITS.**

5 (a) MORE PROTECTIVE LAWS, AGREEMENTS, PRO-
6 GRAMS, AND PLANS.—Nothing in this title shall be con-
7 strued to supersede any provision of any Federal, State,
8 or local law, collective bargaining agreement, or employ-
9 ment benefits program or plan that provides—

10 (1) greater leave benefits for victims of domes-
11 tic violence, dating violence, sexual assault, or stalk-
12 ing than the rights established under this title; or

13 (2) leave benefits for a larger population of vic-
14 tims of domestic violence, dating violence, sexual as-
15 sault, or stalking (as defined in such law, agreement,
16 program, or plan) than the victims of domestic vio-
17 lence, dating violence, sexual assault, or stalking
18 covered under this title.

19 (b) LESS PROTECTIVE LAWS, AGREEMENTS, PRO-
20 GRAMS, AND PLANS.—The rights established for victims
21 of domestic violence, dating violence, sexual assault, or
22 stalking under this title shall not be diminished by any
23 State or local law, collective bargaining agreement, or em-
24 ployment benefits program or plan.

1 **SEC. 106. REGULATIONS.**

2 (a) IN GENERAL.—

3 (1) AUTHORITY TO ISSUE REGULATIONS.—Ex-
4 cept as provided in subsections (b), (c), and (d), the
5 Secretary shall issue regulations to carry out this
6 title.

7 (2) REGULATIONS REGARDING NOTICES.—The
8 regulations described in paragraph (1) shall include
9 regulations requiring every employer to post and
10 keep posted, in conspicuous places on the premises
11 of the employer where notices to employees are cus-
12 tomarily placed, a notice, to be prepared or approved
13 by the Secretary, summarizing the provisions of this
14 title and providing information on procedures for fil-
15 ing complaints. The Secretary shall develop such a
16 notice and provide copies to employers upon request
17 without charge.

18 (b) LIBRARY OF CONGRESS.—The Librarian of Con-
19 gress shall prescribe the regulations described in sub-
20 section (a) with respect to employees of the Library of
21 Congress. The regulations prescribed under this sub-
22 section shall, to the extent appropriate, be consistent with
23 the regulations prescribed by the Secretary under sub-
24 section (a).

25 (c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Of-
26 fice of Personnel Management shall prescribe the regula-

1 tions described in subsection (a) with respect to individ-
2 uals described in subparagraph (A) or (B) of section
3 3(e)(2) of the Fair Labor Standards Act of 1938 (29
4 U.S.C. 203(e)(2)) (other than an individual employed by
5 an entity of the legislative branch of the Federal Govern-
6 ment). The regulations prescribed under this subsection
7 shall, to the extent appropriate, be consistent with the reg-
8 ulations prescribed by the Secretary under subsection (a).

9 (d) **PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-**
10 **ANCE.**—The President shall prescribe the regulations de-
11 scribed in subsection (a) with respect to applicants for and
12 recipients of public assistance, in the case of violations of
13 section 102(f)(1)(C), or section 102(f)(2) due to discrimi-
14 nation described in section 102(f)(1)(C). The regulations
15 prescribed under this subsection shall, to the extent appro-
16 priate, be consistent with the regulations prescribed by the
17 Secretary under subsection (a).

18 **SEC. 107. CONFORMING AMENDMENT.**

19 Section 1003(a)(1) of the Rehabilitation Act Amend-
20 ments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by
21 inserting “title I or III of the Survivors’ Empowerment
22 and Economic Security Act,” before “or the provisions”.

23 **SEC. 108. EFFECTIVE DATE.**

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

1 **TITLE II—ENTITLEMENT TO UN-**
2 **EMPLOYMENT COMPENSA-**
3 **TION FOR VICTIMS OF DO-**
4 **MESTIC VIOLENCE, DATING**
5 **VIOLENCE, SEXUAL ASSAULT,**
6 **OR STALKING**

7 **SEC. 201. PURPOSES.**

8 The purposes of this title are, pursuant to the affirm-
9 ative power of Congress to enact legislation under the por-
10 tions of section 8 of article I of the Constitution relating
11 to laying and collecting taxes, providing for the general
12 welfare, and regulation of commerce among the several
13 States, and under section 5 of the 14th amendment to
14 the Constitution—

15 (1) to promote the national interest in reducing
16 domestic violence, dating violence, sexual assault,
17 and stalking by enabling victims of domestic vio-
18 lence, dating violence, sexual assault, or stalking to
19 maintain the financial independence necessary to
20 leave abusive situations, achieve safety, and mini-
21 mize the physical and emotional injuries from do-
22 mestic violence, dating violence, sexual assault, or
23 stalking, and to reduce the devastating economic
24 consequences of domestic violence, dating violence,

1 sexual assault, or stalking to employers and employ-
2 ees;

3 (2) to promote the national interest in ensuring
4 that victims of domestic violence, dating violence,
5 sexual assault, or stalking can recover from and cope
6 with the effects of such victimization and participate
7 in the criminal and civil justice processes without
8 fear of adverse economic consequences;

9 (3) to minimize the negative impact on inter-
10 state commerce from dislocations of employees and
11 harmful effects on productivity, loss of employment,
12 health care costs, and employer costs, caused by do-
13 mestic violence, dating violence, sexual assault, or
14 stalking, including intentional efforts to frustrate
15 the ability of women to participate in employment
16 and interstate commerce;

17 (4) to promote the purposes of the 14th amend-
18 ment to the Constitution by preventing sex-based
19 discrimination and discrimination against victims of
20 domestic violence, dating violence, sexual assault, or
21 stalking in unemployment insurance, by addressing
22 the failure of existing laws to protect the employ-
23 ment rights of victims of domestic violence, dating
24 violence, sexual assault, or stalking, by protecting
25 their civil and economic rights, and by furthering the

1 equal opportunity of women for economic self-suffi-
2 ciency and employment free from discrimination;
3 and

4 (5) to accomplish the purposes described in
5 paragraphs (1) through (4) by providing unemploy-
6 ment insurance to those who are separated from
7 their employment as a result of domestic violence,
8 dating violence, sexual assault, or stalking, in a
9 manner that accommodates the legitimate interests
10 of employers and protects the safety of all persons
11 in the workplace.

12 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**
13 **PROVISIONS.**

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

17 (1) in subsection (a)—

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

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

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

24 “(19) compensation shall not be denied where
25 an individual is separated from employment due to

1 circumstances resulting from the individual’s experi-
2 ence of domestic violence, dating violence, sexual as-
3 sault, or stalking, nor shall States impose additional
4 conditions that restrict the individual’s eligibility for
5 or receipt of benefits beyond those required of other
6 individuals who are forced to leave their jobs or are
7 deemed to have good cause for voluntarily separating
8 from a job in the State; and”;

9 (2) by adding at the end the following new sub-
10 section:

11 “(g) CONSTRUCTION.—For purposes of subsection
12 (a)(19)—

13 “(1) DOCUMENTATION.—In determining eligi-
14 bility for compensation due to circumstances result-
15 ing from an individual’s experience of domestic vio-
16 lence, dating violence, sexual assault, or stalking—

17 “(A) States shall adopt, or have adopted,
18 by statute, regulation, or policy a list of forms
19 of documentation that may be presented to
20 demonstrate eligibility; and

21 “(B) presentation of any one of such forms
22 of documentation shall be sufficient to dem-
23 onstrate eligibility, except that a State may re-
24 quire the presentation of a form of identifica-

1 tion in addition to the written statement of
2 claimant described in paragraph (2)(G).

3 “(2) LIST OF FORMS OF DOCUMENTATION.—

4 The list referred to in paragraph (1)(A) shall include
5 not less than 3 of the following forms of documenta-
6 tion:

7 “(A) An order of protection or other docu-
8 mentation issued by a court.

9 “(B) A police report or criminal charges
10 documenting the domestic violence, dating vio-
11 lence, sexual assault, or stalking.

12 “(C) Documentation that the perpetrator
13 has been convicted of the offense of domestic vi-
14 olence, dating violence, sexual assault, or stalk-
15 ing.

16 “(D) Medical documentation of the domes-
17 tic violence, dating violence, sexual assault, or
18 stalking.

19 “(E) Evidence of domestic violence, dating
20 violence, sexual assault, or stalking from a
21 counselor, social worker, health worker, or do-
22 mestic violence shelter worker.

23 “(F) A written statement that the appli-
24 cant or the applicant’s minor child is a victim
25 of domestic violence, dating violence, sexual as-

1 sault, or stalking, provided by a social worker,
2 member of the clergy, shelter worker, attorney
3 at law, or other professional who has assisted
4 the applicant in dealing with the domestic vio-
5 lence, dating violence, sexual assault, or stalk-
6 ing.

7 “(G) A written statement of the claimant.

8 “(3) DOMESTIC VIOLENCE, DATING VIOLENCE,
9 SEXUAL ASSAULT, AND STALKING DEFINED.—The
10 terms ‘domestic violence’, ‘dating violence’, ‘sexual
11 assault’, and ‘stalking’ have the meanings given such
12 terms in section 3 of the Survivors’ Empowerment
13 and Economic Security Act.”.

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

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

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

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

24 “(A) applicants for unemployment com-
25 pensation and individuals inquiring about such

1 compensation are adequately notified of the
2 provisions of subsections (a)(19) and (g) of sec-
3 tion 3304 of the Internal Revenue Code of 1986
4 (relating to the availability of unemployment
5 compensation for victims of domestic violence,
6 dating violence, sexual assault, or stalking); and

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

9 “(i) the nature and dynamics of do-
10 mestic violence, dating violence, sexual as-
11 sault, or stalking (as such terms are de-
12 fined in section 3 of the Survivors’ Em-
13 powerment and Economic Security Act);
14 and

15 “(ii) methods of ascertaining and
16 keeping confidential information about pos-
17 sible experiences of domestic violence, dat-
18 ing violence, sexual assault, or stalking (as
19 so defined) to ensure that—

20 “(I) requests for unemployment
21 compensation based on separations
22 stemming from domestic violence, dat-
23 ing violence, sexual assault, or stalk-
24 ing (as so defined) are reliably

1 screened, identified, and adjudicated;
2 and

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

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

9 “(8) CERTIFICATION THAT THE STATE WILL
10 PROVIDE INFORMATION TO VICTIMS OF DOMESTIC
11 VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR
12 STALKING.—A certification by the chief officer of
13 the State that the State has established and is en-
14 forcing standards and procedures to—

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

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

1 “(ii) assistance made available by the
2 State to victims of domestic violence, dat-
3 ing violence, sexual assault, or stalking (as
4 such terms are defined in section 3 of the
5 Survivors’ Empowerment and Economic
6 Security Act);

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

11 “(i) the nature and dynamics of do-
12 mestic violence, dating violence, sexual as-
13 sault, or stalking (as so defined);

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

19 “(iii) methods of ascertaining and
20 keeping confidential information about pos-
21 sible experiences of domestic violence, dat-
22 ing violence, sexual assault, or stalking (as
23 so defined);

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

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

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

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

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

21 (d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEX-
 22 UAL ASSAULT, OR STALKING TRAINING GRANT PRO-
 23 GRAM.—

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

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

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

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

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

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

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

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

6 (A) that is—

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

9 (ii) a State or local victim services or-
10 ganization with recognized expertise in the
11 dynamics of domestic violence, dating vio-
12 lence, sexual assault, or stalking whose pri-
13 mary mission is to provide services to vic-
14 tims of domestic violence, dating violence,
15 sexual assault, or stalking (such as a rape
16 crisis center or domestic violence program);
17 or

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

1 (B) that—

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

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

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

17 (4) REPORTS.—

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

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

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

3 (5) AUTHORIZATION OF APPROPRIATIONS.—

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

6 (i) \$1,000,000 for fiscal year 2010 to
7 carry out the provisions of paragraph
8 (1)(A); and

9 (ii) \$12,000,000 for each of fiscal
10 years 2011 through 2013 to carry out the
11 provisions of paragraph (1)(B).

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

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

24 (e) EFFECT ON EXISTING LAWS, ETC.—

1 (1) MORE PROTECTIVE LAWS, AGREEMENTS,
2 PROGRAMS, AND PLANS.—Nothing in this title shall
3 be construed to supersede any provision of any Fed-
4 eral, State, or local law, collective bargaining agree-
5 ment, or employment benefits program or plan that
6 provides greater unemployment insurance benefits
7 for victims of domestic violence, dating violence, sex-
8 ual assault, or stalking than the rights established
9 under this title.

10 (2) LESS PROTECTIVE LAWS, AGREEMENTS,
11 PROGRAMS, AND PLANS.—The rights established for
12 victims of domestic violence, dating violence, sexual
13 assault, or stalking under this title shall not be di-
14 minished by any more restrictive State or local law,
15 collective bargaining agreement, or employment ben-
16 efits program or plan.

17 (f) EFFECTIVE DATE.—

18 (1) UNEMPLOYMENT AMENDMENTS.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B) and paragraph (2), the
21 amendments made by this section shall apply in
22 the case of compensation paid for weeks begin-
23 ning on or after the expiration of 180 days
24 from the date of enactment of this Act.

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

3 (i) IN GENERAL.—If the Secretary
4 identifies a State as requiring a change to
5 its statutes, regulations, or policies in
6 order to comply with the amendments
7 made by this section (excluding the amend-
8 ment made by subsection (c)), such
9 amendments shall apply in the case of
10 compensation paid for weeks beginning
11 after the earlier of—

12 (I) the date the State changes its
13 statutes, regulations, or policies in
14 order to comply with such amend-
15 ments; or

16 (II) the end of the first session of
17 the State legislature which begins
18 after the date of enactment of this
19 Act or which began prior to such date
20 and remained in session for at least
21 25 calendar days after such date;

22 except that in no case shall such amend-
23 ments apply before the date that is 180
24 days after the date of enactment of this
25 Act.

1 (ii) SESSION DEFINED.—In this sub-
2 paragraph, the term “session” means a
3 regular, special, budget, or other session of
4 a State legislature.

5 (2) TANF AMENDMENT.—

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

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

1 that has a 2-year legislative session, each year
2 of the session is considered to be a separate
3 regular session of the State legislature.

4 **TITLE III—VICTIMS’**
5 **EMPLOYMENT SUSTAINABILITY**

6 **SEC. 301. SHORT TITLE.**

7 This title may be cited as the “Victims’ Employment
8 Sustainability Act”.

9 **SEC. 302. PURPOSES.**

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

16 (1) to promote the national interest in reducing
17 domestic violence, dating violence, sexual assault,
18 and stalking by enabling victims of domestic vio-
19 lence, dating violence, sexual assault, or stalking to
20 maintain the financial independence necessary to
21 leave abusive situations, achieve safety, and mini-
22 mize the physical and emotional injuries from do-
23 mestic violence, dating violence, sexual assault, or
24 stalking, and to reduce the devastating economic
25 consequences of domestic violence, dating violence,

1 sexual assault, or stalking to employers and employ-
2 ees;

3 (2) to promote the national interest in ensuring
4 that victims of domestic violence, dating violence,
5 sexual assault, or stalking can recover from and cope
6 with the effects of domestic violence, dating violence,
7 sexual assault, or stalking, and participate in crimi-
8 nal and civil justice processes, without fear of ad-
9 verse economic consequences from their employers;

10 (3) to ensure that victims of domestic violence,
11 dating violence, sexual assault, or stalking can re-
12 cover from and cope with the effects of domestic vio-
13 lence, dating violence, sexual assault, or stalking,
14 and participate in criminal and civil justice proc-
15 esses, without fear of adverse economic consequences
16 with respect to public benefits;

17 (4) to promote the purposes of the 14th amend-
18 ment to the Constitution by preventing sex-based
19 discrimination and discrimination against victims of
20 domestic violence, dating violence, sexual assault, or
21 stalking in employment, by addressing the failure of
22 existing laws to protect the employment rights of
23 victims of domestic violence, dating violence, sexual
24 assault, or stalking, by protecting the civil and eco-
25 nomic rights of victims of domestic violence, dating

1 violence, sexual assault, or stalking, and by fur-
2 thering the equal opportunity of women for economic
3 self-sufficiency and employment free from discrimi-
4 nation;

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

13 (6) to accomplish the purposes described in
14 paragraphs (1) through (5) by prohibiting employers
15 from discriminating against actual or perceived vic-
16 tims of domestic violence, dating violence, sexual as-
17 sault, or stalking, in a manner that accommodates
18 the legitimate interests of employers and protects
19 the safety of all persons in the workplace.

20 **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

21 (a) IN GENERAL.—An employer shall not fail to hire,
22 refuse to hire, discharge, or harass any individual, or oth-
23 erwise discriminate against any individual with respect to
24 the compensation, terms, conditions, or privileges of em-
25 ployment of the individual (including retaliation in any

1 form or manner), and a public agency shall not deny, re-
2 duce, or terminate the benefits of, otherwise sanction, or
3 harass any individual, or otherwise discriminate against
4 any individual with respect to the amount, terms, or condi-
5 tions of public assistance of the individual (including retal-
6 iation in any form or manner), because—

7 (1) the individual involved is or the employer or
8 public agency involved perceives that individual to be
9 a victim of domestic violence, dating violence, sexual
10 assault, or stalking;

11 (2) that individual attended, participated in,
12 prepared for, or requested leave to attend, partici-
13 pate in, or prepare for, a criminal or civil court pro-
14 ceeding relating to an incident of domestic violence,
15 dating violence, sexual assault, or stalking of which
16 the individual, or the family or household member of
17 the individual, was a victim;

18 (3) that individual, in response to actual or
19 threatened domestic violence, dating violence, sexual
20 assault, or stalking, requested that the employer or
21 public agency implement a reasonable safety proce-
22 dure or a job-related modification to enhance the se-
23 curity of that individual or safeguard the workplace
24 involved; or

1 (4) the workplace is disrupted or threatened by
2 the action of a person whom that individual states
3 has committed or threatened to commit domestic vi-
4 olence, dating violence, sexual assault, or stalking
5 against that individual, or that individual’s family or
6 household member.

7 (b) DEFINITIONS.—In this section:

8 (1) DISCRIMINATE.—The term “discriminate”,
9 used with respect to the terms, conditions, or privi-
10 leges of employment or with respect to the terms or
11 conditions of public assistance, includes failing to
12 implement, on request from an individual, in re-
13 sponse to actual or threatened domestic violence,
14 dating violence, sexual assault, or stalking, a reason-
15 able safety procedure or a job-related modification to
16 enhance the security of that individual or safeguard
17 the workplace (such as installation of a lock, change
18 of a telephone number or seating assignment, provi-
19 sion of a transfer, provision of leave, modification of
20 a schedule, or adjustment of a work requirement),
21 unless the employer or public agency can dem-
22 onstrate that granting the request would impose an
23 undue hardship on the operation of the employer or
24 public agency.

1 (2) **UNDUE HARDSHIP.**—The term “undue
2 hardship” means an action requiring significant dif-
3 ficulty or expense.

4 **SEC. 304. ENFORCEMENT.**

5 (a) **CIVIL ACTION BY INDIVIDUALS.**—

6 (1) **LIABILITY.**—Any employer that violates sec-
7 tion 303 shall be liable to any individual affected
8 for—

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

14 (B) compensatory damages, including dam-
15 ages for future pecuniary losses, emotional
16 pain, suffering, inconvenience, mental anguish,
17 loss of enjoyment or life, and other nonpecu-
18 niary losses;

19 (C) such punitive damages, up to 3 times
20 the amount of actual damages sustained, as the
21 court described in paragraph (2) shall deter-
22 mine to be appropriate; and

23 (D) such equitable relief as may be appro-
24 priate, including employment, reinstatement,
25 and promotion.

1 (2) RIGHT OF ACTION.—An action to recover
2 the damages or equitable relief prescribed in para-
3 graph (1) may be maintained against any employer
4 in any Federal or State court of competent jurisdic-
5 tion by any 1 or more individuals described in sec-
6 tion 303.

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

11 (c) LIBRARY OF CONGRESS.—Notwithstanding any
12 other provision of this section, in the case of the Library
13 of Congress, the authority of the Secretary under this sec-
14 tion shall be exercised by the Librarian of Congress.

15 (d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

16 (1) AGENCIES.—Notwithstanding any other
17 provision of this subsection, in the case of a public
18 agency that employs individuals as described in sub-
19 paragraph (A) or (B) of section 3(e)(2) of the Fair
20 Labor Standards Act of 1938 (29 U.S.C. 203(e)(2))
21 (other than an entity of the legislative branch of the
22 Federal Government), paragraph (2) shall apply.

23 (2) AUTHORITY.—In the case described in
24 paragraph (1), the powers, remedies, and procedures
25 provided (in the case of a violation of section

1 2302(b)(1)(A) of title 5, United States Code) in title
2 5, United States Code, to an employing agency, the
3 Office of Special Counsel, the Merit Systems Protec-
4 tion Board, or any person alleging a violation of
5 such section 2302(b)(1)(A), shall be the powers,
6 remedies, and procedures this section provides in the
7 case of a violation of section 303 to that agency,
8 that Office, that Board, or any person alleging a vio-
9 lation of section 303, respectively, against an em-
10 ployee who is such an individual.

11 (e) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
12 ANCE.—Consistent with regulations prescribed under sec-
13 tion 306(d), the President shall ensure that any public
14 agency that violates section 303(a) by taking an action
15 prohibited under section 303(a) against any individual
16 with respect to the amount, terms, or conditions of public
17 assistance, shall provide to any individual who receives a
18 less favorable amount, term, or condition of public assist-
19 ance as a result of the violation—

20 (1)(A) the amount of any public assistance de-
21 nied or lost to such individual by reason of the viola-
22 tion; and

23 (B) the interest on the amount described in
24 clause (i) calculated at the prevailing rate; and

25 (2) such equitable relief as may be appropriate.

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

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

6 **SEC. 306. REGULATIONS.**

7 (a) IN GENERAL.—Except as provided in subsections
8 (b), (c), and (d), the Secretary shall issue regulations to
9 carry out this title.

10 (b) LIBRARY OF CONGRESS.—The Librarian of Con-
11 gress shall prescribe the regulations described in sub-
12 section (a) with respect to employees of the Library of
13 Congress. The regulations prescribed under this sub-
14 section shall, to the extent appropriate, be consistent with
15 the regulations prescribed by the Secretary under sub-
16 section (a).

17 (c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Of-
18 fice of Personnel Management, after consultation with the
19 Office of Special Counsel and the Merit Systems Protec-
20 tion Board, shall prescribe the regulations described in
21 subsection (a) with respect to individuals described in sub-
22 paragraph (A) or (B) of section 3(e)(2) of the Fair Labor
23 Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than
24 an individual employed by an entity of the legislative
25 branch of the Federal Government). The regulations pre-
26 scribed under this subsection shall, to the extent appro-

1 piate, be consistent with the regulations prescribed by the
 2 Secretary under subsection (a).

3 (d) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
 4 ANCE.—The President shall prescribe the regulations de-
 5 scribed in subsection (a) with respect to applicants for and
 6 recipients of public assistance, in the case of violations of
 7 section 303(a) by taking an action prohibited under sec-
 8 tion 303(a) against any individual with respect to the
 9 amount, terms, or conditions of public assistance. The reg-
 10 ulations prescribed under this subsection shall, to the ex-
 11 tent appropriate, be consistent with the regulations pre-
 12 scribed by the Secretary under subsection (a).

13 **TITLE IV—VICTIMS OF ABUSE** 14 **INSURANCE PROTECTION**

15 **SEC. 401. SHORT TITLE.**

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

18 **SEC. 402. DEFINITIONS.**

19 In this title:

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

24 (A) Attempting to cause or causing an-
 25 other person bodily injury, physical harm, sub-

1 stantial emotional distress, or psychological
2 trauma.

3 (B) Attempting to engage in or engaging
4 in rape, sexual assault, or involuntary sexual
5 intercourse.

6 (C) Engaging in a course of conduct or re-
7 peatedly committing acts toward another per-
8 son, including following the person without
9 proper authority and under circumstances that
10 place the person in reasonable fear of bodily in-
11 jury or physical harm.

12 (D) Subjecting another person to false im-
13 prisonment or kidnapping.

14 (E) Attempting to cause or causing dam-
15 age to property so as to intimidate or attempt
16 to control the behavior of another person.

17 (2) HEALTH CARRIER.—The term “health car-
18 rier” means a person that contracts or offers to con-
19 tract on a risk-assuming basis to provide, deliver, ar-
20 range for, pay for, or reimburse any of the cost of
21 health care services, including a sickness and acci-
22 dent insurance company, a health maintenance orga-
23 nization, a nonprofit hospital and health service cor-
24 poration, or any other entity providing a plan of
25 health insurance, health benefits, or health services.

1 (3) INSURED.—The term “insured” means a
2 party named on a policy, certificate, or health ben-
3 efit plan, including an individual, corporation, part-
4 nership, association, unincorporated organization, or
5 any similar entity, as the person with legal rights to
6 the benefits provided by the policy, certificate, or
7 health benefit plan. For group insurance, the term
8 includes a person who is a beneficiary covered by a
9 group policy, certificate, or health benefit plan. For
10 life insurance, the term refers to the person whose
11 life is covered under an insurance policy.

12 (4) INSURER.—The term “insurer” means any
13 person, reciprocal exchange, inter insurer, Lloyds in-
14 surer, fraternal benefit society, or other legal entity
15 engaged in the business of insurance, including
16 agents, brokers, adjusters, and third-party adminis-
17 trators. The term includes employers who provide or
18 make available employment benefits through an em-
19 ployee benefit plan, as defined in section 3(3) of the
20 Employee Retirement Income Security Act of 1974
21 (29 U.S.C. 1002(3)). The term also includes health
22 carriers, health benefit plans, and life, disability, and
23 property and casualty insurers.

24 (5) POLICY.—The term “policy” means a con-
25 tract of insurance, certificate, indemnity, suretyship,

1 or annuity issued, proposed for issuance, or intended
2 for issuance by an insurer, including endorsements
3 or riders to an insurance policy or contract.

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

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

8 (B) a person who has prior or current in-
9 juries, illnesses, or disorders that resulted from
10 abuse; or

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

15 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

16 (a) IN GENERAL.—No insurer may, directly or indi-
17 rectly, engage in any of the following acts or practices on
18 the basis that the applicant or insured, or any person em-
19 ployed by the applicant or insured or with whom the appli-
20 cant or insured is known to have a relationship or associa-
21 tion, is, has been, or may be the subject of abuse or has
22 incurred or may incur abuse-related claims:

23 (1) Denying, refusing to issue, renew, or re-
24 issue, or canceling or otherwise terminating an in-
25 surance policy or health benefit plan.

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

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

7 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No
8 insurer may, directly or indirectly, deny or limit payment
9 to an insured who is a subject of abuse if the claim for
10 payment is a result of the abuse.

11 (c) PROHIBITION ON TERMINATION.—

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

23 (2) PAYMENT OF PREMIUMS.—Nothing in para-
24 graph (1) shall be construed to prohibit the insurer
25 from requiring that the subject of abuse pay the full

1 premium for the subject's coverage under the health
2 plan if the requirements are applied to all insured of
3 the health carrier.

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

9 (4) CONTINUATION COVERAGE.—The continu-
10 ation of health coverage required by this subsection
11 shall be satisfied by any extension of coverage under
12 part 6 of subtitle B of title I of the Employee Re-
13 tirement Income Security Act of 1974 (29 U.S.C.
14 1161 et seq.) or section 4980B of the Internal Rev-
15 enue Code of 1986 provided to a subject of abuse
16 and is not intended to be in addition to any exten-
17 sion of coverage otherwise provided for under such
18 part 6 or section 4980B.

19 (d) USE OF INFORMATION.—

20 (1) LIMITATION.—

21 (A) IN GENERAL.—In order to protect the
22 safety and privacy of subjects of abuse, no per-
23 son employed by or contracting with an insurer
24 or health benefit plan may (without the consent
25 of the subject)—

1 (i) use, disclose, or transfer informa-
2 tion relating to abuse status, acts of abuse,
3 abuse-related medical conditions, or the
4 applicant's or insured's status as a family
5 member, employer, associate, or person in
6 a relationship with a subject of abuse for
7 any purpose unrelated to the direct provi-
8 sion of health care services unless such
9 use, disclosure, or transfer is required by
10 an order of an entity with authority to reg-
11 ulate insurance or an order of a court of
12 competent jurisdiction; or

13 (ii) disclose or transfer information
14 relating to an applicant's or insured's mail-
15 ing address or telephone number or the
16 mailing address and telephone number of a
17 shelter for subjects of abuse, unless such
18 disclosure or transfer—

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

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

24 (B) RULE OF CONSTRUCTION.—Nothing in
25 this paragraph may be construed to limit or

1 preclude a subject of abuse from obtaining the
2 subject's own insurance records from an in-
3 surer.

4 (2) **AUTHORITY OF SUBJECT OF ABUSE.**—A
5 subject of abuse, at the absolute discretion of the
6 subject of abuse, may provide evidence of abuse to
7 an insurer for the limited purpose of facilitating
8 treatment of an abuse-related condition or dem-
9 onstrating that a condition is abuse-related. Nothing
10 in this paragraph shall be construed as authorizing
11 an insurer or health carrier to disregard such pro-
12 vided evidence.

13 **SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**
14 **ABUSE.**

15 Insurers shall develop and adhere to written policies
16 specifying procedures to be followed by employees, con-
17 tractors, producers, agents, and brokers for the purpose
18 of protecting the safety and privacy of a subject of abuse
19 and otherwise implementing this title when taking an ap-
20 plication, investigating a claim, or taking any other action
21 relating to a policy or claim involving a subject of abuse.

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

23 An insurer that takes an action that adversely affects
24 a subject of abuse, shall advise the applicant or insured
25 who is the subject of abuse of the specific reasons for the

1 action in writing. For purposes of this section, reference
2 to general underwriting practices or guidelines shall not
3 constitute a specific reason.

4 **SEC. 406. LIFE INSURANCE.**

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

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

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

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

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

19 **SEC. 408. ENFORCEMENT.**

20 (a) **FEDERAL TRADE COMMISSION.**—Any act or
21 practice prohibited by this title shall be treated as an un-
22 fair and deceptive act or practice pursuant to section 5
23 of the Federal Trade Commission Act (15 U.S.C. 45) and
24 the Federal Trade Commission shall enforce this title in
25 the same manner, by the same means, and with the same

1 jurisdiction, powers, and duties as though all applicable
2 terms and provisions of the Federal Trade Commission
3 Act were incorporated into and made a part of this title,
4 including issuing a cease and desist order granting any
5 individual relief warranted under the circumstances, in-
6 cluding temporary, preliminary, and permanent injunctive
7 relief and compensatory damages.

8 (b) PRIVATE CAUSE OF ACTION.—

9 (1) IN GENERAL.—An applicant or insured who
10 believes that they have been adversely affected by an
11 act or practice of an insurer in violation of this title
12 may maintain an action against the insurer in a
13 Federal or State court of original jurisdiction.

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

22 (3) STATUTORY DAMAGES.—With respect to
23 compensatory damages in an action described in
24 paragraph (1), the aggrieved individual may elect, at
25 any time prior to the rendering of final judgment, to

1 recover in lieu of actual damages, an award of statu-
2 tory damages in the amount of \$5,000 for each vio-
3 lation.

4 **SEC. 409. EFFECTIVE DATE.**

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

7 **TITLE V—SEVERABILITY**

8 **SEC. 501. SEVERABILITY.**

9 If any provision of this Act, any amendment made
10 by this Act, or the application of such provision or amend-
11 ment to any person or circumstance is held to be unconsti-
12 tutional, the remainder of the provisions of this Act, the
13 amendments made by this Act, and the application of such
14 provisions or amendments to any person or circumstance
15 shall not be affected.

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