

109TH CONGRESS
1ST SESSION

S. 1796

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

SEPTEMBER 29, 2005

Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE) 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 Act” or the
6 “SAFE Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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. 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.

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—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

Sec. 501. National clearinghouse and resource center on domestic and sexual violence in the workplace grant.

TITLE VI—SEVERABILITY

Sec. 601. Severability.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

1 (1) Domestic violence crimes account for ap-
2 proximately 15 percent of total crime costs in the
3 United States each year.

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

8 (3) According to a recent study by the National
9 Institutes of Health and Centers for Disease Control
10 and Prevention, each year there are 5,300,000 non-
11 fatal violent victimizations committed by intimate
12 partners against women. Female murder victims
13 were substantially more likely than male murder vic-
14 tims to have been killed by an intimate partner.
15 About $\frac{1}{3}$ of female murder victims, and about 4 per-
16 cent of male murder victims, were killed by an inti-
17 mate partner.

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

23 (5) Approximately 10,200,000 people have been
24 stalked at some time in their lives. Four out of every
25 5 stalking victims are women. Stalkers harass and

1 terrorize their victims by spying on the victims,
2 standing outside their places of work or homes, mak-
3 ing unwanted phone calls, sending or leaving un-
4 wanted letters or items, or vandalizing property.

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

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

15 (8) The prevalence of domestic violence, dating
16 violence, sexual assault, stalking, and other violence
17 against women at work is dramatic. About 36,500
18 individuals, 80 percent of whom are women, were
19 raped or sexually assaulted in the workplace each
20 year from 1993 through 1999. Half of all female
21 victims of violent workplace crimes know their
22 attackers. Nearly 1 out of 10 violent workplace inci-
23 dents are committed by partners or spouses. Women
24 who work for State and local governments suffer a

1 higher incidence of workplace assaults, including
2 rapes, than women who work in the private sector.

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

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

10 (11) According to a 1998 report of the Govern-
11 ment Accountability Office, between $\frac{1}{4}$ and $\frac{1}{2}$ of
12 domestic violence victims surveyed in 3 studies re-
13 ported that the victims lost a job due, at least in
14 part, to domestic violence.

15 (12) 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 (13) Abusers frequently seek to control their
22 partners by actively interfering with their ability to
23 work, including preventing their partners from going
24 to work, harassing their partners at work, limiting
25 the access of their partners to cash or transpor-

1 tation, and sabotaging the child care arrangements
2 of their partners.

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

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

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

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

21 (18)(A) According to the National Institute of
22 Justice, crime costs an estimated \$450,000,000,000
23 annually in medical expenses, lost earnings, social
24 service costs, pain, suffering, and reduced quality of

1 life for victims, which harms the Nation's produc-
2 tivity and drains the Nation's resources.

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

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

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

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

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

24 (22) Surveys of business executives and cor-
25 porate security directors also underscore the heavy

1 toll that workplace violence takes on women, busi-
2 nesses, and interstate commerce in the United
3 States.

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

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

13 (25) Only 28 States have laws that explicitly
14 provide unemployment insurance to domestic vio-
15 lence victims in certain circumstances, and none of
16 the laws explicitly cover victims of sexual assault or
17 stalking.

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

23 (27) No States prohibit employment discrimina-
24 tion against all victims of domestic violence, sexual
25 assault, or stalking. Five States have limited protec-

1 tions against such discrimination for some victims
2 under certain circumstances.

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

6 (A) obtain orders of protection;

7 (B) seek medical or legal assistance, coun-
8 seling, or other services; or

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

11 (29) Victims of domestic violence, dating vio-
12 lence, sexual assault, or stalking have been subjected
13 to discrimination by private and State employers, in-
14 cluding discrimination motivated by stereotypic no-
15 tions about women and other discrimination on the
16 basis of sex.

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

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

6 (31) Existing Federal law does not explicitly—

7 (A) authorize victims of domestic violence,
8 dating violence, sexual assault, or stalking to
9 take leave from work to seek legal assistance
10 and redress, counseling, or assistance with safe-
11 ty planning activities;

12 (B) address the eligibility of victims of do-
13 mestic violence, dating violence, sexual assault,
14 or stalking for unemployment compensation;

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

19 (D) prohibit insurers and employers who
20 self-insure employee benefits from—

21 (i) discriminating against domestic vi-
22 olence victims and those who help them in
23 determining eligibility for coverage, rates
24 charged, and standards for payment of
25 claims; or

1 (ii) disclosing information about abuse
2 and the location of the victims through in-
3 surance databases and other means.

4 **SEC. 3. DEFINITIONS.**

5 In this Act, except as otherwise expressly provided:

6 (1) **COMMERCE.**—The terms “commerce” and
7 “industry or activity affecting commerce” have the
8 meanings given the terms in section 101 of the
9 Family and Medical Leave Act of 1993 (29 U.S.C.
10 2611).

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

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

21 (4) **DOMESTIC VIOLENCE.**—The term “domestic
22 violence” has the meaning given the term in section
23 826 of the Higher Education Amendments of 1998
24 (20 U.S.C. 1152).

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

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

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

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

17 (6) ELECTRONIC COMMUNICATIONS.—The term
18 “electronic communications” includes communica-
19 tions via telephone (including mobile phone), com-
20 puter, e-mail, video recorder, fax machine, telex, or
21 pager.

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

1 (8) EMPLOYEE.—

2 (A) IN GENERAL.—The term “employee”
3 means any person employed by an employer. In
4 the case of an individual employed by a public
5 agency, such term means an individual em-
6 ployed as described in section 3(e)(2) of the
7 Fair Labor Standards Act of 1938 (29 U.S.C.
8 203(e)(2)).

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

17 (9) EMPLOYER.—The term “employer”—

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

22 (B) includes any person acting directly or
23 indirectly in the interest of an employer in rela-
24 tion to an employee, and includes a public agen-
25 cy that employs individuals as described in sec-

tion 3(e)(2) of the Fair Labor Standards Act of 1938, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

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

(11) FAMILY OR HOUSEHOLD MEMBER.—The term “family or household member”, used with respect to a person, means a spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit as the person.

(12) PARENT; SON OR DAUGHTER.—The terms “parent” and “son or daughter” have the meanings

1 given the terms in section 101 of the Family and
2 Medical Leave Act of 1993 (29 U.S.C. 2611).

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

6 (14) PUBLIC AGENCY.—The term “public agen-
7 cy” has the meaning given the term in section 3 of
8 the Fair Labor Standards Act of 1938 (29 U.S.C.
9 203).

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

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

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

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

22 (19) SEXUAL ASSAULT.—The term “sexual as-
23 sault” has the meaning given the term in section
24 826 of the Higher Education Amendments of 1998
25 (20 U.S.C. 1152).

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

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

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

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

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

1 (22) VICTIM OF DOMESTIC VIOLENCE, DATING
2 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The
3 term “victim of domestic violence, dating violence,
4 sexual assault, or stalking” includes a person who
5 has been a victim of domestic violence, dating vio-
6 lence, sexual assault, or stalking and a person whose
7 family or household member has been a victim of do-
8 mestic violence, dating violence, sexual assault, or
9 stalking.

10 (23) VICTIM SERVICES ORGANIZATION.—The
11 term “victim services organization” means a non-
12 profit, nongovernmental organization that provides
13 assistance to victims of domestic violence, dating vio-
14 lence, sexual assault, or stalking, or to advocates for
15 such victims, including a rape crisis center, an orga-
16 nization carrying out a domestic violence program,
17 an organization operating a shelter or providing
18 counseling services, or an organization providing as-
19 sistance through the legal process.

1 **TITLE I—ENTITLEMENT TO**
2 **EMERGENCY LEAVE FOR AD-**
3 **DRESSING DOMESTIC VIO-**
4 **LENCE, DATING VIOLENCE,**
5 **SEXUAL ASSAULT, OR STALK-**
6 **ING**

7 **SEC. 101. 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 providing for the general welfare and to regulation of
12 commerce among the several States, and under section 5
13 of the 14th amendment to the Constitution—

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

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

8 (3) to ensure that victims of domestic violence,
9 dating violence, sexual assault, or stalking can recover
10 from and cope with the effects of domestic violence,
11 dating violence, sexual assault, or stalking,
12 and participate in criminal and civil justice processes,
13 without fear of adverse economic consequences
14 with respect to public benefits;

15 (4) to promote the purposes of the 14th amendment
16 by preventing sex-based discrimination and
17 discrimination against victims of domestic violence,
18 dating violence, sexual assault, or stalking in employment
19 leave, by addressing the failure of existing
20 laws to protect the employment rights of victims of
21 domestic violence, dating violence, sexual assault, or
22 stalking, by protecting their civil and economic
23 rights, and by furthering the equal opportunity of
24 women for economic self-sufficiency and employment
25 free from discrimination;

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

9 (6) to further the goals of human rights and
10 dignity reflected in instruments such as the Charter
11 of the United Nations, the Universal Declaration of
12 Human Rights, and the International Covenant on
13 Civil and Political Rights; and

14 (7) to accomplish the purposes described in
15 paragraphs (1) through (6) by—

16 (A) entitling employed victims of domestic
17 violence, dating violence, sexual assault, or
18 stalking to take leave to seek medical help, legal
19 assistance, counseling, safety planning, and
20 other assistance without penalty from their em-
21 ployers; and

22 (B) prohibiting employers from discrimi-
23 nating against actual or perceived victims of do-
24 mestic violence, dating violence, sexual assault,
25 or stalking, in a manner that accommodates the

1 legitimate interests of employers and protects
2 the safety of all persons in the workplace.

3 **SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR AD-**
4 **DRESSING DOMESTIC VIOLENCE, DATING VI-**
5 **OLENCE, SEXUAL ASSAULT, OR STALKING.**

6 (a) LEAVE REQUIREMENT.—

7 (1) BASIS.—An employee who is a victim of do-
8 mestic violence, dating violence, sexual assault, or
9 stalking may take leave from work to address do-
10 mestic violence, dating violence, sexual assault, or
11 stalking, by—

12 (A) seeking medical attention for, or recov-
13 ering from, physical or psychological injuries
14 caused by domestic violence, dating violence,
15 sexual assault, or stalking to the employee or
16 the employee's family or household member;

17 (B) obtaining services from a victim serv-
18 ices organization for the employee or the em-
19 ployee's family or household member;

20 (C) obtaining psychological or other coun-
21 seling for the employee or the employee's family
22 or household member;

23 (D) participating in safety planning, tem-
24 porarily or permanently relocating, or taking
25 other actions to increase the safety of the em-

1 employee or the employee's family or household
2 member from future domestic violence, dating
3 violence, sexual assault, or stalking or ensure
4 economic security; or

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

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

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

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

22 (c) CERTIFICATION.—

23 (1) IN GENERAL.—The employer may require
24 the employee to provide certification to the employer,

1 within a reasonable period after the employer re-
 2 quests the certification, that—

3 (A) the employee or the employee’s family
 4 or household member is a victim of domestic vi-
 5 olence, dating violence, sexual assault, or stalk-
 6 ing; and

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

9 (2) CONTENTS.—An employee may satisfy the
 10 certification requirement of paragraph (1) by pro-
 11 viding to the employer—

12 (A) a sworn statement of the employee;

13 (B) documentation from an employee,
 14 agent, or volunteer of a victim services organi-
 15 zation, an attorney, a member of the clergy, or
 16 a medical or other professional, from whom the
 17 employee or the employee’s family or household
 18 member has sought assistance in addressing do-
 19 mestic violence, dating violence, sexual assault,
 20 or stalking and the effects of domestic violence,
 21 dating violence, sexual assault, or stalking;

22 (C) a police or court record; or

23 (D) other corroborating evidence.

24 (d) CONFIDENTIALITY.—All information provided to
 25 the employer pursuant to subsection (b) or (c), including

1 a statement of the employee or any other documentation,
 2 record, or corroborating evidence, and the fact that the
 3 employee has requested or obtained leave pursuant to this
 4 section, shall be retained in the strictest confidence by the
 5 employer, except to the extent that disclosure is—

6 (1) requested or consented to by the employee
 7 in writing; or

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

10 (e) EMPLOYMENT AND BENEFITS.—

11 (1) RESTORATION TO POSITION.—

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

17 (i) to be restored by the employer to
 18 the position of employment held by the em-
 19 ployee when the leave commenced; or

20 (ii) to be restored to an equivalent po-
 21 sition with equivalent employment benefits,
 22 pay, and other terms and conditions of em-
 23 ployment.

24 (B) LOSS OF BENEFITS.—The taking of
 25 leave under this section shall not result in the

1 loss of any employment benefit accrued prior to
2 the date on which the leave commenced.

3 (C) LIMITATIONS.—Nothing in this sub-
4 section shall be construed to entitle any re-
5 stored employee to—

6 (i) the accrual of any seniority or em-
7 ployment benefits during any period of
8 leave; or

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

14 (D) CONSTRUCTION.—Nothing in this
15 paragraph shall be construed to prohibit an em-
16 ployer from requiring an employee on leave
17 under this section to report periodically to the
18 employer on the status and intention of the em-
19 ployee to return to work.

20 (2) EXEMPTION CONCERNING CERTAIN HIGHLY
21 COMPENSATED EMPLOYEES.—

22 (A) DENIAL OF RESTORATION.—An em-
23 ployer may deny restoration under paragraph
24 (1) to any employee described in subparagraph
25 (B) if—

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

4 (ii) the employer notifies the employee
5 of the intent of the employer to deny res-
6 toration on such basis at the time the em-
7 ployer determines that such injury would
8 occur; and

9 (iii) in any case in which the leave has
10 commenced, the employee elects not to re-
11 turn to employment after receiving such
12 notice.

13 (B) AFFECTED EMPLOYEES.—An employee
14 referred to in subparagraph (A) is a salaried
15 employee who is among the highest paid 10 per-
16 cent of the employees employed by the employer
17 within 75 miles of the facility at which the em-
18 ployee is employed.

19 (3) MAINTENANCE OF HEALTH BENEFITS.—

20 (A) COVERAGE.—Except as provided in
21 subparagraph (B), during any period that an
22 employee takes leave under this section, the em-
23 ployer shall maintain coverage under any group
24 health plan (as defined in section 5000(b)(1) of
25 the Internal Revenue Code of 1986) for the du-

1 ration of such leave at the level and under the
2 conditions coverage would have been provided if
3 the employee had continued in employment con-
4 tinuously for the duration of such leave.

5 (B) FAILURE TO RETURN FROM LEAVE.—

6 The employer may recover the premium that
7 the employer paid for maintaining coverage for
8 the employee under such group health plan dur-
9 ing any period of leave under this section if—

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

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

16 (I) the continuation of, recur-
17 rence of, or onset of an episode of do-
18 mestic violence, dating violence, sexual
19 assault, or stalking, that entitles the
20 employee to leave pursuant to this
21 section; or

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

24 (C) CERTIFICATION.—

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

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

13 (I) a sworn statement of the em-
14 ployee;

15 (II) documentation from an em-
16 ployee, agent, or volunteer of a victim
17 services organization, an attorney, a
18 member of the clergy, or a medical or
19 other professional, from whom the
20 employee or the employee's family or
21 household member has sought assist-
22 ance in addressing domestic violence,
23 dating violence, sexual assault, or
24 stalking and the effects of domestic

1 violence, dating violence, sexual as-
 2 sault, or stalking;

3 (III) a police or court record; or

4 (IV) other corroborating evi-
 5 dence.

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

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

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

20 (f) PROHIBITED ACTS.—

21 (1) INTERFERENCE WITH RIGHTS.—

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

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

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

11 (ii) opposed any practice made unlaw-
12 ful by this section.

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

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

24 (ii) opposed any practice made unlaw-
25 ful by this section.

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

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

10 (B) has given, or is about to give, any in-
 11 formation in connection with any inquiry or
 12 proceeding relating to any right provided under
 13 this section; or

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

17 (g) ENFORCEMENT.—

18 (1) CIVIL ACTION BY AFFECTED INDIVID-
 19 UALS.—

20 (A) LIABILITY.—Any employer that vio-
 21 lates subsection (f) shall be liable to any indi-
 22 vidual affected—

23 (i) for damages equal to—

24 (I) the amount of—

1 (aa) any wages, salary, em-
2 ployment benefits, or other com-
3 pensation denied or lost to such
4 individual by reason of the viola-
5 tion; or

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

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

16 (III) an additional amount as liq-
17 uidated damages equal to the sum of
18 the amount described in subclause (I)
19 and the interest described in sub-
20 clause (II), except that if an employer
21 that has violated subsection (f) proves
22 to the satisfaction of the court that
23 the act or omission that violated sub-
24 section (f) was in good faith and that
25 the employer had reasonable grounds

1 for believing that the act or omission
 2 was not a violation of subsection (f),
 3 such court may, in the discretion of
 4 the court, reduce the amount of the li-
 5 ability to the amount and interest de-
 6 termined under subclauses (I) and
 7 (II), respectively; and

8 (ii) for such equitable relief as may be
 9 appropriate, including employment, rein-
 10 statement, and promotion.

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

17 (i) the individuals; or

18 (ii) the individuals and other individ-
 19 uals similarly situated.

20 (C) FEES AND COSTS.—The court in such
 21 an action shall, in addition to any judgment
 22 awarded to the plaintiff, allow a reasonable at-
 23 torney's fee, reasonable expert witness fees, and
 24 other costs of the action to be paid by the de-
 25 fendant.

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

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

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer liable under subparagraph (A), unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives,

1 investigates, and attempts to resolve complaints
2 of violations of sections 6 and 7 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 206
4 and 207).

5 (B) CIVIL ACTION.—The Secretary may
6 bring an action in any court of competent juris-
7 diction to recover the damages described in
8 paragraph (1)(A)(i).

9 (C) SUMS RECOVERED.—Any sums recov-
10 ered by the Secretary pursuant to subparagraph
11 (B) shall be held in a special deposit account
12 and shall be paid, on order of the Secretary, di-
13 rectly to each individual affected. Any such
14 sums not paid to such an individual because of
15 inability to do so within a period of 3 years
16 shall be deposited into the Treasury of the
17 United States as miscellaneous receipts.

18 (3) LIMITATION.—

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

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

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

5 (C) COMMENCEMENT.—In determining
6 when an action is commenced by the Secretary
7 under this subsection for the purposes of this
8 paragraph, it shall be considered to be com-
9 menced on the date when the complaint is filed.

10 (4) ACTION FOR INJUNCTION BY SECRETARY.—

11 The district courts of the United States shall have
12 jurisdiction, for cause shown, in an action brought
13 by the Secretary—

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

19 (B) to award such other equitable relief as
20 may be appropriate, including employment, re-
21 instatement, and promotion.

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

1 (6) EMPLOYER LIABILITY UNDER OTHER
 2 LAWS.—Nothing in this section shall be construed to
 3 limit the liability of an employer or public agency to
 4 an individual, for harm suffered relating to the indi-
 5 vidual’s experience of domestic violence, dating vio-
 6 lence, sexual assault, or stalking, pursuant to any
 7 other Federal or State law, including a law providing
 8 for a legal remedy.

9 (7) LIBRARY OF CONGRESS.—Notwithstanding
 10 any other provision of this subsection, in the case of
 11 the Library of Congress, the authority of the Sec-
 12 retary under this subsection shall be exercised by the
 13 Librarian of Congress.

14 (8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

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

23 (B) AUTHORITY.—In the case described in
 24 subparagraph (A), the powers, remedies, and
 25 procedures provided in the case of a violation of

1 chapter 63 of title 5, United States Code, in
 2 that title to an employing agency, in chapter 12
 3 of that title to the Merit Systems Protection
 4 Board, or in that title to any person alleging a
 5 violation of chapter 63 of that title, shall be the
 6 powers, remedies, and procedures this sub-
 7 section provides in the case of a violation of
 8 subsection (f) to that agency, that Board, or
 9 any person alleging a violation of subsection (f),
 10 respectively, against an employee who is such
 11 an individual.

12 (9) PUBLIC AGENCIES PROVIDING PUBLIC AS-
 13 SISTANCE.—Consistent with regulations prescribed
 14 under section 106(d), the President shall ensure that
 15 any public agency that violates subsection (f)(1)(C),
 16 or subsection (f)(2) by discriminating as described in
 17 subsection (f)(1)(C), shall provide to any individual
 18 who receives a less favorable amount, term, or condi-
 19 tion of public assistance as a result of the viola-
 20 tion—

21 (A)(i) the amount of any public assistance
 22 denied or lost to such individual by reason of
 23 the violation; and

24 (ii) the interest on the amount described in
 25 clause (i); and

1 (B) such equitable relief as may be appro-
 2 priate.

3 **SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-**
 4 **MESTIC VIOLENCE, DATING VIOLENCE, SEX-**
 5 **UAL ASSAULT, OR STALKING.**

6 An employee who is entitled to take paid or unpaid
 7 leave (including family, medical, sick, annual, personal, or
 8 similar leave) from employment, pursuant to State or local
 9 law, a collective bargaining agreement, or an employment
 10 benefits program or plan, may elect to substitute any pe-
 11 riod of such leave for an equivalent period of leave pro-
 12 vided under section 102.

13 **SEC. 104. EMERGENCY BENEFITS.**

14 (a) IN GENERAL.—A State may use funds provided
 15 to the State under part A of title IV of the Social Security
 16 Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-
 17 term emergency benefits to an individual for any period
 18 of leave the individual takes pursuant to section 102.

19 (b) ELIGIBILITY.—In calculating the eligibility of an
 20 individual for such emergency benefits, the State shall
 21 count only the cash available or accessible to the indi-
 22 vidual.

23 (c) TIMING.—

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

20 SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BEN-
21 EFITS.

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1 or local law, collective bargaining agreement, or employ-
 2 ment benefits program or plan that provides—

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

6 (2) leave benefits for a larger population of vic-
 7 tims of domestic violence, dating violence, sexual as-
 8 sault, or stalking (as defined in such law, agreement,
 9 program, or plan) than the victims of domestic vio-
 10 lence, dating violence, sexual assault, or stalking
 11 covered under this title.

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

18 **SEC. 106. REGULATIONS.**

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

22 (b) LIBRARY OF CONGRESS.—The Librarian of Con-
 23 gress shall prescribe the regulations described in sub-
 24 section (a) with respect to employees of the Library of
 25 Congress. The regulations prescribed under this sub-

1 section shall, to the extent appropriate, be consistent with
 2 the regulations prescribed by the Secretary under sub-
 3 section (a).

4 (c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Of-
 5 fice of Personnel Management shall prescribe the regula-
 6 tions described in subsection (a) with respect to individ-
 7 uals described in subparagraph (A) or (B) of section
 8 3(e)(2) of the Fair Labor Standards Act of 1938 (29
 9 U.S.C. 203(e)(2)) (other than an individual employed by
 10 an entity of the legislative branch of the Federal Govern-
 11 ment). The regulations prescribed under this subsection
 12 shall, to the extent appropriate, be consistent with the reg-
 13 ulations prescribed by the Secretary under subsection (a).

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

23 **SEC. 107. CONFORMING AMENDMENT.**

24 Section 1003(a)(1) of the Rehabilitation Act Amend-
 25 ments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by

1 inserting “title I or III of the Security and Financial Em-
 2 powerment Act,” before “or the provisions”.

3 **SEC. 108. EFFECTIVE DATE.**

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

6 **TITLE II—ENTITLEMENT TO UN-**
 7 **EMPLOYMENT COMPENSA-**
 8 **TION FOR VICTIMS OF DO-**
 9 **MESTIC VIOLENCE, DATING**
 10 **VIOLENCE, SEXUAL ASSAULT,**
 11 **OR STALKING**

12 **SEC. 201. 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 laying and collecting taxes, providing for the general
 17 welfare, and regulation of commerce among the several
 18 States, and under section 5 of the 14th amendment to
 19 the Constitution—

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

1 mize the physical and emotional injuries from do-
2 mestic violence, dating violence, sexual assault, or
3 stalking, and to reduce the devastating economic
4 consequences of domestic violence, dating violence,
5 sexual assault, or stalking to employers and employ-
6 ees;

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

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

21 (4) to promote the purposes of the 14th amend-
22 ment to the Constitution by preventing sex-based
23 discrimination and discrimination against victims of
24 domestic violence, dating violence, sexual assault, or
25 stalking in unemployment insurance, by addressing

1 the failure of existing laws to protect the employ-
 2 ment rights of victims of domestic violence, dating
 3 violence, sexual assault, or stalking, by protecting
 4 their civil and economic rights, and by furthering the
 5 equal opportunity of women for economic self-suffi-
 6 ciency and employment free from discrimination;
 7 and

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

16 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**
 17 **PROVISIONS.**

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

21 (1) in subsection (a)—

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

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

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

3 “(19) compensation shall not be denied where
4 an individual is separated from employment due to
5 circumstances resulting from the individual’s experi-
6 ence of domestic violence, dating violence, sexual as-
7 sault, or stalking, nor shall States impose additional
8 conditions that restrict the individual’s eligibility for
9 or receipt of benefits beyond those required of other
10 individuals who are forced to leave their jobs or are
11 deemed to have good cause for voluntarily separating
12 from a job in the State; and”;

13 (2) by adding at the end the following new sub-
14 section:

15 “(g) CONSTRUCTION.—For purposes of subsection
16 (a)(19)—

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

21 “(A) States shall adopt, or have adopted,
22 by statute, regulation, or policy a list of forms
23 of documentation that may be presented to
24 demonstrate eligibility; and

1 “(B) presentation of any one of such forms
2 of documentation shall be sufficient to dem-
3 onstrate eligibility, except that a State may re-
4 quire the presentation of a form of identifica-
5 tion in addition to the written statement of
6 claimant described in paragraph (2)(G).

7 “(2) LIST OF FORMS OF DOCUMENTATION.—
8 The list referred to in paragraph (1)(A) shall include
9 not less than 3 of the following forms of documenta-
10 tion:

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

13 “(B) A police report or criminal charges
14 documenting the domestic violence, dating vio-
15 lence, sexual assault, or stalking.

16 “(C) Documentation that the perpetrator
17 has been convicted of the offense of domestic vi-
18 olence, dating violence, sexual assault, or stalk-
19 ing.

20 “(D) Medical documentation of the domes-
21 tic violence, dating violence, sexual assault, or
22 stalking.

23 “(E) Evidence of domestic violence, dating
24 violence, sexual assault, or stalking from a

counselor, social worker, health worker, or domestic violence shelter worker.

“(F) A written statement that the applicant or the applicant’s minor child is a victim of domestic violence, dating violence, sexual assault, or stalking, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic violence, dating violence, sexual assault, or stalking.

“(G) A written statement of the claimant.

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

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

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

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

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

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

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

15 “(i) the nature and dynamics of do-
16 mestic violence, dating violence, sexual as-
17 sault, or stalking (as such terms are de-
18 fined in section 3 of the Security and Fi-
19 nancial Empowerment Act); and

20 “(ii) methods of ascertaining and
21 keeping confidential information about pos-
22 sible experiences of domestic violence, dat-
23 ing violence, sexual assault, or stalking (as
24 so defined) to ensure that—

1 “(I) requests for unemployment
 2 compensation based on separations
 3 stemming from domestic violence, dat-
 4 ing violence, sexual assault, or stalk-
 5 ing (as so defined) are reliably
 6 screened, identified, and adjudicated;
 7 and

8 “(II) full confidentiality is pro-
 9 vided for the individual’s claim and
 10 submitted evidence; and”.

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

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

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

24 “(i) the provisions of subsections
 25 (a)(19) and (g) of section 3304 of the In-

1 ternal Revenue Code of 1986 (relating to
2 the availability of unemployment com-
3 pensation for victims of domestic violence,
4 dating violence, sexual assault, or stalk-
5 ing); and

6 “(ii) assistance made available by the
7 State to victims of domestic violence, dat-
8 ing violence, sexual assault, or stalking (as
9 such terms are defined in section 3 of the
10 Security and Financial Empowerment
11 Act);

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

16 “(i) the nature and dynamics of do-
17 mestic violence, dating violence, sexual as-
18 sault, or stalking (as so defined);

19 “(ii) State standards and procedures
20 relating to the prevention of, and assist-
21 ance for individuals who experience, do-
22 mestic violence, dating violence, sexual as-
23 sault, or stalking (as so defined); and

24 “(iii) methods of ascertaining and
25 keeping confidential information about pos-

1 sible experiences of domestic violence, dat-
2 ing violence, sexual assault, or stalking (as
3 so defined);

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

8 “(i) applicants for assistance under
9 the program and individuals inquiring
10 about such assistance are adequately noti-
11 fied of options available under such stand-
12 ards and procedures; and

13 “(ii) case workers and other agency
14 personnel responsible for administering the
15 State program funded under this part are
16 provided with adequate training regarding
17 such standards and procedures and options
18 available under such standards and proce-
19 dures; and

20 “(D) ensure that the training required
21 under subparagraphs (B) and, if applicable,
22 (C)(ii) is provided through a training program
23 operated by an eligible entity (as defined in sec-
24 tion 202(d)(2) of the Security and Financial
25 Empowerment Act).”.

1 (d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEX-
2 UAL ASSAULT, OR STALKING TRAINING GRANT PRO-
3 GRAM.—

4 (1) GRANTS AUTHORIZED.—The Secretary of
5 Health and Human Services (in this subsection re-
6 ferred to as the “Secretary”) is authorized to
7 award—

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

10 (i) develop and disseminate a model
11 training program (and related materials)
12 for the training required under section
13 303(a)(4)(B) of the Social Security Act, as
14 added by subsection (b), and under sub-
15 paragraphs (B) and, if applicable, (C)(ii)
16 of section 402(a)(8) of the such Act, as
17 added by subsection (c); and

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

21 (B) grants to State, tribal, or local agen-
22 cies in order for such agencies to contract with
23 eligible entities to provide State, tribal, or local
24 case workers and other State, tribal, or local
25 agency personnel responsible for administering

1 the temporary assistance to needy families pro-
2 gram established under part A of title IV of the
3 Social Security Act in a State or Indian res-
4 ervation with the training required under sub-
5 paragraphs (B) and, if applicable, (C)(ii) of
6 such section 402(a)(8).

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

10 (A) that is—

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

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

22 (iii) an organization with dem-
23 onstrated expertise in State or county wel-
24 fare laws and implementation of such laws
25 and experience with disseminating informa-

tion on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and (B) that—

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

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

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

(4) REPORTS.—

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

1 (B) REPORTS AVAILABLE TO PUBLIC.—

2 The Secretary shall establish procedures for the
3 dissemination to the public of each report sub-
4 mitted under subparagraph (A). Such proce-
5 dures shall include the use of the Internet to
6 disseminate such reports.

7 (5) AUTHORIZATION OF APPROPRIATIONS.—

8 (A) AUTHORIZATION.—There are author-
9 ized to be appropriated—

10 (i) \$1,000,000 for fiscal year 2007 to
11 carry out the provisions of paragraph
12 (1)(A); and

13 (ii) \$12,000,000 for each of fiscal
14 years 2008 through 2010 to carry out the
15 provisions of paragraph (1)(B).

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

23 (C) AMOUNTS RETURNED.—Any amounts
24 returned pursuant to subparagraph (B) shall be
25 available without further appropriation to the

1 Secretary for the purpose of carrying out the
 2 provisions of paragraph (1)(B).

3 (e) EFFECT ON EXISTING LAWS, ETC.—

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

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

20 (f) EFFECTIVE DATE.—

21 (1) UNEMPLOYMENT AMENDMENTS.—

22 (A) IN GENERAL.—Except as provided in
 23 subparagraph (B) and paragraph (2), the
 24 amendments made by this section shall apply in
 25 the case of compensation paid for weeks begin-

ning on or after the expiration of 180 days
from the date of enactment of this Act.

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

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

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

(II) the end of the first session of
the State legislature which begins
after the date of enactment of this
Act or which began prior to such date
and remained in session for at least
25 calendar days after such date;
except that in no case shall such amend-
ments apply before the date that is 180

1 days after the date of enactment of this
2 Act.

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

7 (2) TANF AMENDMENT.—

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

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

the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE III—VICTIMS’ EMPLOYMENT SUSTAINABILITY

SEC. 301. SHORT TITLE.

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

SEC. 302. PURPOSES.

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

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

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

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

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

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

1 assault, or stalking, by protecting the civil and eco-
2 nomic rights of victims of domestic violence, dating
3 violence, sexual assault, or stalking, and by fur-
4 thering the equal opportunity of women for economic
5 self-sufficiency and employment free from discrimi-
6 nation;

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

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

22 **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

23 (a) IN GENERAL.—An employer shall not fail to hire,
24 refuse to hire, discharge, or harass any individual, or oth-
25 erwise discriminate against any individual with respect to

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

9 (1) the individual involved—

10 (A) is or is perceived to be a victim of do-
11 mestic violence, dating violence, sexual assault,
12 or stalking;

13 (B) attended, participated in, prepared for,
14 or requested leave to attend, participate in, or
15 prepare for, a criminal or civil court proceeding
16 relating to an incident of domestic violence, dat-
17 ing violence, sexual assault, or stalking of which
18 the individual, or the family or household mem-
19 ber of the individual, was a victim; or

20 (C) requested an adjustment to a job
21 structure, workplace facility, or work require-
22 ment, including a transfer, reassignment, or
23 modified schedule, leave, a changed telephone
24 number or seating assignment, installation of a
25 lock, or implementation of a safety procedure,

1 in response to actual or threatened domestic vi-
2 olence, dating violence, sexual assault, or stalk-
3 ing, regardless of whether the request was
4 granted; or

5 (2) the workplace is disrupted or threatened by
6 the action of a person whom the individual states
7 has committed or threatened to commit domestic vi-
8 olence, dating violence, sexual assault, or stalking
9 against the individual, or the individual's family or
10 household member.

11 (b) DEFINITIONS.—In this section:

12 (1) DISCRIMINATE.—The term “discriminate”,
13 used with respect to the terms, conditions, or privi-
14 leges of employment or with respect to the terms or
15 conditions of public assistance, includes not making
16 a reasonable accommodation to the known limita-
17 tions of an otherwise qualified individual—

18 (A) who is a victim of domestic violence,
19 dating violence, sexual assault, or stalking;

20 (B) who is—

21 (i) an applicant or employee of the
22 employer (including a public agency) that
23 employs individuals as described in section
24 3(e)(2) of the Fair Labor Standards Act of
25 1938 (29 U.S.C. 603(e)(2)); or

1 (ii) an applicant for or recipient of
2 public assistance from a public agency; and

3 (C) whose limitations resulted from cir-
4 cumstances relating to being a victim of domes-
5 tic violence, dating violence, sexual assault, or
6 stalking;

7 unless the employer or public agency can dem-
8 onstrate that the accommodation would impose an
9 undue hardship on the operation of the employer or
10 public agency.

11 (2) QUALIFIED INDIVIDUAL.—The term “quali-
12 fied individual” means—

13 (A) in the case of an applicant or employee
14 described in paragraph (1)(B)(i), an individual
15 who, with or without reasonable accommoda-
16 tion, can perform the essential functions of the
17 employment position that such individual holds
18 or desires; or

19 (B) in the case of an applicant or recipient
20 described in paragraph (1)(B)(ii), an individual
21 who, with or without reasonable accommoda-
22 tion, can satisfy the essential requirements of
23 the program providing the public assistance
24 that the individual receives or desires.

1 (3) REASONABLE ACCOMMODATION.—The term
2 “reasonable accommodation” may include an adjust-
3 ment to a job structure, workplace facility, or work
4 requirement, including a transfer, reassignment, or
5 modified schedule, leave, a changed telephone num-
6 ber or seating assignment, installation of a lock, or
7 implementation of a safety procedure, in response to
8 actual or threatened domestic violence, dating vio-
9 lence, sexual assault, or stalking.

10 (4) UNDUE HARDSHIP.—

11 (A) IN GENERAL.—The term “undue hard-
12 ship” means an action requiring significant dif-
13 ficulty or expense, when considered in light of
14 the factors set forth in subparagraph (B).

15 (B) FACTORS TO BE CONSIDERED.—In de-
16 termining whether a reasonable accommodation
17 would impose an undue hardship on the oper-
18 ation of an employer or public agency, factors
19 to be considered include—

20 (i) the nature and cost of the reason-
21 able accommodation needed under this sec-
22 tion;

23 (ii) the overall financial resources of
24 the facility involved in the provision of the
25 reasonable accommodation, the number of

1 persons employed at such facility, the ef-
2 fect on expenses and resources, or the im-
3 pact otherwise of such accommodation on
4 the operation of the facility;

5 (iii) the overall financial resources of
6 the employer or public agency, the overall
7 size of the business of an employer or pub-
8 lic agency with respect to the number of
9 employees of the employer or public agen-
10 cy, and the number, type, and location of
11 the facilities of an employer or public agen-
12 cy; and

13 (iv) the type of operation of the em-
14 ployer or public agency, including the com-
15 position, structure, and functions of the
16 workforce of the employer or public agen-
17 cy, the geographic separateness of the fa-
18 cility from the employer or public agency,
19 and the administrative or fiscal relation-
20 ship of the facility to the employer or pub-
21 lic agency.

22 **SEC. 304. ENFORCEMENT.**

23 (a) CIVIL ACTION BY INDIVIDUALS.—

1 (1) LIABILITY.—Any employer that violates sec-
2 tion 303 shall be liable to any individual affected
3 for—

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

9 (B) compensatory damages, including dam-
10 ages for future pecuniary losses, emotional
11 pain, suffering, inconvenience, mental anguish,
12 loss of enjoyment or life, and other nonpecu-
13 niary losses;

14 (C) such punitive damages, up to 3 times
15 the amount of actual damages sustained, as the
16 court described in paragraph (2) shall deter-
17 mine to be appropriate; and

18 (D) such equitable relief as may be appro-
19 priate, including employment, reinstatement,
20 and promotion.

21 (2) RIGHT OF ACTION.—An action to recover
22 the damages or equitable relief prescribed in para-
23 graph (1) may be maintained against any employer
24 in any Federal or State court of competent jurisdic-

1 tion by any 1 or more individuals described in sec-
2 tion 303.

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

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

11 (d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

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

19 (2) AUTHORITY.—In the case described in sub-
20 paragraph (A), the powers, remedies, and procedures
21 provided (in the case of a violation of section
22 2302(b)(1)(A) of title 5, United States Code) in title
23 5, United States Code, to an employing agency, the
24 Office of Special Counsel, the Merit Systems Protec-
25 tion Board, or any person alleging a violation of

1 such section 2302(b)(1)(A), shall be the powers,
 2 remedies, and procedures this section provides in the
 3 case of a violation of section 303 to that agency,
 4 that Office, that Board, or any person alleging a vio-
 5 lation of section 303, respectively, against an em-
 6 ployee who is such an individual.

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

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

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

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

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

23 Section 722(b) of the Revised Statutes (42 U.S.C.
 24 1988(b)) is amended by inserting “the Victims’ Employ-

1 ment Sustainability Act,” after “title VI of the Civil
2 Rights Act of 1964,”.

3 **SEC. 306. REGULATIONS.**

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

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

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

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

11 **TITLE IV—VICTIMS OF ABUSE** 12 **INSURANCE PROTECTION**

13 **SEC. 401. SHORT TITLE.**

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

16 **SEC. 402. DEFINITIONS.**

17 In this title:

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

22 (A) Attempting to cause or causing an-
 23 other person bodily injury, physical harm, sub-
 24 stantial emotional distress, or psychological
 25 trauma.

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

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

10 (D) Subjecting another person to false im-
11 prisonment or kidnapping.

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

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

24 (3) INSURED.—The term “insured” means a
25 party named on a policy, certificate, or health ben-

1 efit plan, including an individual, corporation, part-
2 nership, association, unincorporated organization, or
3 any similar entity, as the person with legal rights to
4 the benefits provided by the policy, certificate, or
5 health benefit plan. For group insurance, the term
6 includes a person who is a beneficiary covered by a
7 group policy, certificate, or health benefit plan. For
8 life insurance, the term refers to the person whose
9 life is covered under an insurance policy.

10 (4) INSURER.—The term “insurer” means any
11 person, reciprocal exchange, inter insurer, Lloyds in-
12 surer, fraternal benefit society, or other legal entity
13 engaged in the business of insurance, including
14 agents, brokers, adjusters, and third-party adminis-
15 trators. The term includes employers who provide or
16 make available employment benefits through an em-
17 ployee benefit plan, as defined in section 3(3) of the
18 Employee Retirement Income Security Act of 1974
19 (29 U.S.C. 102(3)). The term also includes health
20 carriers, health benefit plans, and life, disability, and
21 property and casualty insurers.

22 (5) POLICY.—The term “policy” means a con-
23 tract of insurance, certificate, indemnity, suretyship,
24 or annuity issued, proposed for issuance, or intended

1 for issuance by an insurer, including endorsements
2 or riders to an insurance policy or contract.

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

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

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

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

14 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

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

22 (1) Denying, refusing to issue, renew, or re-
23 issue, or canceling or otherwise terminating an in-
24 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 the applicant or insured has been ad-
11 versely affected by an act or practice of an insurer
12 in violation of this title may maintain an action
13 against the insurer in a Federal or State court of
14 original jurisdiction.

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

23 (3) STATUTORY DAMAGES.—With respect to
24 compensatory damages in an action described in
25 paragraph (1), the aggrieved individual may elect, at

1 any time prior to the rendering of final judgment, to
 2 recover in lieu of actual damages, an award of statu-
 3 tory damages in the amount of \$5,000 for each vio-
 4 lation.

5 **SEC. 409. EFFECTIVE DATE.**

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

8 **TITLE V—NATIONAL CLEARING-**
 9 **HOUSE AND RESOURCE CEN-**
 10 **TER ON DOMESTIC AND SEX-**
 11 **UAL VIOLENCE IN THE WORK-**
 12 **PLACE GRANT**

13 **SEC. 501. NATIONAL CLEARINGHOUSE AND RESOURCE**
 14 **CENTER ON DOMESTIC AND SEXUAL VIO-**
 15 **LENCE IN THE WORKPLACE GRANT.**

16 (a) **AUTHORITY.**—The Attorney General may award
 17 a grant in accordance with this section to a private, non-
 18 profit entity or tribal organization that meets the require-
 19 ments of subsection (b), in order to provide for the estab-
 20 lishment and operation of a national clearinghouse and re-
 21 source center to provide information and assistance to em-
 22 ployers, labor organizations, and advocates on behalf of
 23 victims of domestic violence, dating violence, sexual as-
 24 sault, or stalking, to aid in their efforts to develop and
 25 implement appropriate responses to domestic violence,

1 dating violence, sexual assault, or stalking to assist those
2 victims.

3 (b) APPLICATIONS.—To be eligible to receive a grant
4 under this section, an entity or organization shall submit
5 an application to the Attorney General at such time, in
6 such manner, and containing such information as the At-
7 torney General may require, including—

8 (1) information that demonstrates that the ap-
9 plicant—

10 (A) has nationally recognized expertise in
11 the area of domestic violence, dating violence,
12 sexual assault, or stalking and a record of com-
13 mitment to reducing, and quality responses to
14 reduce, domestic violence, dating violence, sex-
15 ual assault, or stalking; and

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

20 (2) a plan to maximize, to the extent prac-
21 ticable, outreach—

22 (A) to employers (including private compa-
23 nies, and public entities such as public institu-
24 tions of higher education and State and local
25 governments) and labor organizations in devel-

1 oping and implementing appropriate responses
2 to assist employees who are victims of domestic
3 violence, dating violence, sexual assault, or
4 stalking; and

5 (B) to advocates described in subsection
6 (a), in developing and implementing appropriate
7 responses to assist victims of domestic violence,
8 dating violence, sexual assault, or stalking.

9 (c) USE OF GRANT AMOUNT.—

10 (1) IN GENERAL.—An entity or organization
11 that receives a grant under this section may use the
12 funds made available through the grant for staff sal-
13 aries, travel expenses, equipment, printing, and
14 other reasonable expenses necessary to develop,
15 maintain, and disseminate to employers, labor orga-
16 nizations, and advocates described in subsection (a),
17 information on and assistance concerning appro-
18 priate responses to assist victims of domestic vio-
19 lence, dating violence, sexual assault, or stalking.

20 (2) RESPONSES.—Responses referred to in
21 paragraph (1) may include—

22 (A) providing training to promote a better
23 understanding of appropriate assistance to vic-
24 tims of domestic violence, dating violence, sex-
25 ual assault, or stalking;

1 (B) providing conferences and other edu-
 2 cational opportunities;

3 (C) developing protocols and model work-
 4 place policies;

5 (D) providing employer- and labor organi-
 6 zation-sponsored victim services and outreach
 7 counseling; and

8 (E) conducting assessments of the work-
 9 place costs of domestic violence, dating violence,
 10 sexual assault, or stalking.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
 12 authorized to be appropriated to carry out this section
 13 \$1,000,000 for each of fiscal years 2007 through 2011.

14 **TITLE VI—SEVERABILITY**

15 **SEC. 601. SEVERABILITY.**

16 If any provision of this Act, any amendment made
 17 by this Act, or the application of such provision or amend-
 18 ment to any person or circumstance is held to be unconsti-
 19 tutional, the remainder of the provisions of this Act, the
 20 amendments made by this Act, and the application of such
 21 provisions or amendments to any person or circumstance
 22 shall not be affected.

