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## BATTERED WOMEN'S TESTIMONY ACT OF 1992

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OCTOBER 3, 1992.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

### R E P O R T

[To accompany H.R. 1252]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1252) to authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony in criminal trials of battered women, particularly in cases involving indigent women, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Battered Women's Testimony Act of 1992"

**SEC. 2. AUTHORITY OF STATE JUSTICE INSTITUTE.**

The State Justice Institute shall—

(1) collect nationwide and analyze information regarding—

(A) the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, and

(B) sources of, and methods to obtain, funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants,

(2) develop training materials to assist—

(A) battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use such expert testimony in appropriate

ate cases, particularly appropriate cases involving indigent women defendants, and

(B) individuals with expertise in the experiences of battered women to develop skills appropriate to providing such expert testimony, and

(3) disseminate such information and such training materials, and provide related technical assistance, to battered women, such operators, such advocates, such attorneys, and such individuals.

#### SEC. 3. ADMINISTRATIVE PROVISIONS.

For purposes of this Act—

(1) subsections (d) and (e) of section 206 of the State Justice Institute Act of 1984, and

(2) subsections (a) and (b) of section 207 of such Act, shall apply in the same manner as such subsections apply with respect to grants and contracts made under such Act.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$600,000 to carry out this Act.

### EXPLANATION OF AMENDMENT

Inasmuch as H.R. 1252 was ordered reported with a single amendment in the nature of a substitute, the contents of this report constitutes an explanation of that amendment.

### SUMMARY AND PURPOSE

The purpose of H.R. 1252 is to authorize the appropriation of \$600,000 for the State Justice Institute (SJI) to collect and analyze information regarding the admissibility and quality of expert testimony relating to battered women and develop and disseminate training materials as well as identify the sources of funding for these programs.

### HEARINGS

On August 6, 1992, the Subcommittee on Intellectual Property and Judicial Administration, to which the bill was referred, held a legislative hearing on H.R. 1252 and two related bills H.R. 1253, and H. Con. Res. 89. Testimony was received from Congresswoman Constance Morella, Representative, 8th Congressional District, Maryland; Hon. William Donald Schaefer, the Governor, State of Maryland; Ms. Roberta Francis, Director, New Jersey Division of Women; Ms. Melanie Griffin, Executive Director, New Jersey Commission on Sex Discrimination in the Statutes; Mrs. Barbara Price, Executive Director, New Jersey Coalition for Battered Women; Dr. Lenore Walker, Psychologist, Denver, Colorado; Judge Rosalyn B. Bell, Associate Judge, Maryland Court of Special Appeals; Ms. Lorraine Chase, YWCA Women's Center, Annapolis, Maryland; and Ms. Leslye Orloff, Director, Clinica Legal Latina at Ayuda Inc., Washington, DC.

### COMMITTEE VOTE

On September 30, 1992, a reporting quorum being present, the Committee on the Judiciary ordered H.R. 1252, as amended, reported to the House by voice vote.

## DISCUSSION

## LEGISLATIVE HISTORY

H.R. 1252 was introduced by the Congresswoman Constance Morrell on March 5, 1991. On August 6, 1992, the Subcommittee on Intellectual Property and Judicial Administration held a hearing on the proposed legislation. On September 18, 1992, the Subcommittee marked up H.R. 1252, and after agreeing to one amendment, ordered it favorably reported to the full Committee by voice vote, a quorum of members being present. The substantive change in the amendment eliminated a requirement that the State Justice Institute contract with only one entity to accomplish the objectives outlined in the bill. Since SJI is active in this subject area, the Subcommittee believed that it should allow SJI flexibility to accomplish the goals outlined without limiting grants to one entity.

On September 30, 1992, H.R. 1252 was considered by the Committee. The measure was passed by voice vote without further amendment, a quorum of members being present.

## BACKGROUND

The testimony before the Committee indicates that each year 3 to 4 million women suffer physical, sexual, and mental attacks—and 3,000 to 4,000 women will be murdered—by a spouse or partner. While these attacks occur, more than 3 million children will watch the violence. Subsequent to these repeated attacks, some of these battered women are driven to retaliate. A few even kill their abusive partners. The Committee believes it is critical that judges and juries understand the plight of these battered women. Judges also need to consider the implications of histories of domestic violence before making custody decisions.

The central phenomenon surrounding H.R. 1252 is the “battered woman syndrome” (BWS) and our society’s response to it. This syndrome describes the psychological condition of a woman who is repeatedly attacked—physically, sexually, or mentally—by an intimate partner, and explains why her perceptions and reactions may be different from the average person. It also helps to explain why victims of domestic violence remain in these abusive relationships and why, under certain circumstances, these women have sometimes resorted to killing their battering partners.

H.R. 1252 is based on the premise that there is specialized knowledge of the nature and effect of domestic violence which is sufficiently established to have gained the general acceptance that is required for the admissibility of expert testimony. The testimony of the witnesses before the Committee indicates that expert testimony on the battered woman syndrome is crucial to explain to the factfinder why a defendant used deadly force against someone who, to all outward appearances, did not appear to pose an imminent danger of death or serious bodily harm.

The Committee recognizes a need to collect and analyze information regarding the admissibility and quality of expert testimony relating to battered women and develop and disseminate training materials to identify and increase the use of experts, as well as identify the sources of funding for these experts in cases involving

indigent women defendants. It also believes that the State Justice Institute is the appropriate agency to accomplish this task.

#### SECTION-BY-SECTION ANALYSIS

*Section 1*—This is the short title of the bill, the “Battered Women’s Testimony Act of 1992.”

*Section 2*—This section authorizes the State Justice Institute to collect information on expert testimony offered as part of the defense of battered women in criminal cases and sources of funding to provide such expert testimony. It also directs SJI to develop training materials to assist battered women and the various persons and organizations that attempt to assist them. SJI would then disseminate this information.

*Section 3*—This section makes the various administrative procedures of the SJI Act applicable.

*Section 4*—This section authorizes up to \$600,000 to be appropriated for the State Justice Institute to carry out the purpose of the bill.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause (2)(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of the report.

#### COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the proposed legislation does not provide new budget authority or increase tax expenditures.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 1252 will have no significant inflationary impact on prices or costs in the national economy.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 1252, the following estimate and comparison prepared by the director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 1, 1992.*

Hon. JACK BROOKS,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1252, the Battered Women's Testimony Act of 1991, as ordered reported by the House Committee on the Judiciary on September 30, 1992. CBO estimates that enactment of this legislation would result in additional outlays of \$600,000 over the fiscal years 1994-1995, assuming the appropriation of the full amount authorized by the bill.

Enactment of H.R. 1252 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

This bill would authorize the State Justice Institute to make grants for the collection, analysis, and dissemination of information and training materials to aid battered women or their advocates in criminal legal proceedings. The bill authorizes the appropriation of \$600,000 for this purpose. Based on historical spending patterns of the State Justice Institute, CBO estimates that grants would be awarded within one year of enactment of H.R. 1252, and that outlays resulting from these grants would occur over the following two fiscal years. Hence, assuming appropriation of the full amount authorized, we estimate that enactment of this legislation would result in outlays by the federal government of \$300,000 in each of fiscal years 1994 and 1995.

The State Justice Institute Act of 1984 stipulates that grant recipients must provide matching funds from public or private sources. Matching funds of \$600,000 would be required for the activities authorized by this bill, and state or local governments might be responsible for some of those costs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Debra Goldberg and Robert Sunshine.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

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