

THE VIOLENCE AGAINST WOMEN ACT OF 1993

SEPTEMBER 10 (legislative day, SEPTEMBER 7), 1993.—Ordered to be printed

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

REPORT

[To accompany S. 11, as amended]

The Committee on the Judiciary, to which was referred the bill (S. 11), having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

SEC. 2. TABLE OF CONTENTS.

- Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

- Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

- Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.
Sec. 114. Authorization for Federal victim's counselors.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

- Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

- Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—Justice Department Task Force on Violence Against Women

- Sec. 141. Establishment.
Sec. 142. General purposes of task force.
Sec. 143. Membership.
Sec. 144. Task Force operations.
Sec. 145. Executive director and staff.
Sec. 146. Powers of Task Force.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

- Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

- Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.
Sec. 163. Education and prevention grants to reduce sexual abuse of female runaway, homeless, and street youth.
Sec. 164. Victim's right of allocation in sentencing.

TITLE II—SAFE HOMES FOR WOMEN

- Sec. 201. Short title.

Subtitle A—Family Violence Prevention and Services Act Amendments

- Sec. 211. Grant for a national domestic violence hotline.

Subtitle B—Interstate Enforcement

- Sec. 221. Interstate enforcement.

Subtitle C—Arrest in Spousal Abuse Cases

- Sec. 231. Encouraging arrest policies.

Subtitle D—Domestic Violence Family Support and Shelter Grants

- Sec. 241. Authorization of appropriations.

Subtitle E—Family Violence Prevention and Services Act Amendments

- Sec. 251. Grantee reporting.

Subtitle F—Youth Education and Domestic Violence

- Sec. 261. Educating youth about domestic violence.

Subtitle G—Confidentiality for Abused Persons

- Sec. 271. Confidentiality of abused person's address.

Subtitle H—Technical Amendments

- Sec. 281. State domestic violence coalitions.

Subtitle I—Data and Research

- Sec. 291. Report on recordkeeping.
- Sec. 292. Research agenda.
- Sec. 293. State databases.
- Sec. 294. Number and cost of injuries.

TITLE III—CIVIL RIGHTS

- Sec. 301. Short title.
- Sec. 302. Civil rights.
- Sec. 303. Attorney's fees.
- Sec. 304. Sense of the Senate concerning protection of the privacy of rape victims.

TITLE IV—SAFE CAMPUSES FOR WOMEN

- Sec. 401. Authorization of appropriations.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

- Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

- Sec. 511. Grants authorized.
- Sec. 512. Training provided by grants.
- Sec. 513. Cooperation in developing programs in making grants under this title.
- Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

- Sec. 521. Authorizations of circuit studies; education and training grants.
- Sec. 522. Authorization of appropriations.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

- Sec. 601. Pre-trial detention in sex offense cases.
- Sec. 602. Increased penalties for sex offenses against victims below the age of 16.
- Sec. 603. Payment of cost of hiv testing for victims in sex offense cases.
- Sec. 604. Extension and strengthening of restitution.
- Sec. 605. Enforcement of restitution orders through suspension of Federal benefits.
- Sec. 606. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.
- Sec. 607. National baseline study on campus sexual assault.
- Sec. 608. Report on battered women's syndrome.
- Sec. 609. Report on confidentiality of addresses for victims of domestic violence.
- Sec. 610. Report on recordkeeping relating to domestic violence.
- Sec. 611. Report on fair treatment in legal proceedings.
- Sec. 612. Report on Federal rule of evidence 404.
- Sec. 613. Supplementary grants for States adopting effective laws relating to sexual violence.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized."

(b) RECOMMENDATION BY THE SENTENCING COMMISSION.—The Sentencing Commission shall implement the amendment made by subsection (a) by recommending to the Congress amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders."

SEC. 112. FEDERAL PENALTIES.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on ag-

gravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and recommend amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and recommend amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and recommend amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and recommend amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the defendant is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“§ 2248. Mandatory restitution

“(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.

“(2) For purposes of this subsection, the term ‘full amount of the victim's losses’ includes any costs incurred by the victim for—

“(A) medical services relating to physical, psychiatric, or psychological care;

“(B) physical and occupational therapy or rehabilitation;

“(C) necessary transportation, temporary housing, and child care expenses;

“(D) lost income;

“(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

“(F) any other losses suffered by the victim as a proximate result of the offense.

“(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

“(A) the economic circumstances of the defendant; or

“(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

“(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

“(B) For purposes of this paragraph, the term ‘economic circumstances’ includes—

“(i) the financial resources and other assets of the defendant;

“(ii) projected earnings, earning capacity, and other income of the defendant; and

“(iii) any financial obligations of the defendant, including obligations to dependents.

“(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant’s restitutionary obligation takes priority over any criminal fine ordered.

“(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim’s other losses before any restitution is paid to any other provider of compensation.

“(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

“(A) any Federal civil proceeding; and

“(B) any State civil proceeding, to the extent provided by the law of the State.

“(c) **PROOF OF CLAIM.**—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney’s delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney’s delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney’s delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

“(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court’s restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney’s delegee) to submit further affidavits or other supporting documents, demonstrating the victim’s losses.

“(3) If the court concludes, after reviewing the supporting documentation and considering the defendant’s objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge’s chambers.

“(4) In the event that the victim’s losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney’s delegee) shall so inform the court, and the court shall set a date for the final determination of the victim’s losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

“(d) **DEFINITIONS.**—For purposes of this section, the term ‘victim’ includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.”

(2) **TABLE OF SECTIONS.**—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

“2248. Mandatory restitution.”.

(b) **SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.**—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

“§ 2259. Mandatory restitution

“(a) **IN GENERAL.**—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

“(b) **SCOPE AND NATURE OF ORDER.**—(1) The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court, pursuant to paragraph (2); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

- "(A) medical services relating to physical, psychiatric, or psychological care;
- "(B) physical and occupational therapy or rehabilitation;
- "(C) necessary transportation, temporary housing, and child care expenses;
- "(D) lost income;
- "(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and
- "(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

- "(A) the economic circumstances of the defendant; or
- "(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

- "(i) the financial resources and other assets of the defendant;
- "(ii) projected earnings, earning capacity, and other income of the defendant; and
- "(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated,

or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian."

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution."

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, \$1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 4 of Public Law 102-521 (106 Stat. 3404), is amended by—

- (1) redesignating part Q as part R;
- (2) redesignating section 1701 as section 1801; and
- (3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) **GENERAL PROGRAM PURPOSE.**—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) **PURPOSES FOR WHICH GRANTS MAY BE USED.**—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1711. HIGH INTENSITY GRANTS.

"(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) **DEFINITION.**—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

"SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1721. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) \$500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if

an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1722. GENERAL GRANTS TO TRIBES.

"(a) **GENERAL GRANTS.**—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) **AMOUNTS.**—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

"(c) **QUALIFICATION.**—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) **APPLICATION REQUIREMENTS.**—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) **GRANTEE REPORTING.**—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) **DEFINITIONS.**—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1731. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1732. GENERAL TERMS AND CONDITIONS.

"(a) **NONMONETARY ASSISTANCE.**—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) **BUREAU REPORTING.**—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

"(c) **REGULATIONS.**—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, \$100,000,000 to carry out subpart 1, and \$190,000,000 to carry out subpart 2, and \$10,000,000 to carry out section 1722 of subpart 2."

(b) **TECHNICAL AMENDMENT.**—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"Sec. 1711. High intensity grants.

"Sec. 1712. High intensity grant application.

"SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1721. General grants to States.

"Sec. 1722. General grants to tribes.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"Sec. 1731. General definitions.

"Sec. 1732. General terms and conditions.

PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings."

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

“GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

“SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed \$10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

“(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

“(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

“(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

“(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

“(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

“(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

“(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

“(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

“(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

“(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

“(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).”

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

“SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

“(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed \$10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

“(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

“(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas."

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8) is amended by adding at the end the following new subsection:

"(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State."

Subtitle D—Justice Department Task Force on Violence Against Women

SEC. 141. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 142. GENERAL PURPOSES OF TASK FORCE.

(a) **GENERAL PURPOSE OF THE TASK FORCE.**—The Task Force shall recommend Federal, State, and local strategies for preventing and sanctioning violent crime against women, including the enhancement and protection of the rights of the victims of such crimes.

(b) **FUNCTIONS.**—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women and to punish those responsible for such crime;

(2) evaluating the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of rules of evidence, practice and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and make recommendations regarding, the adequacy of State and Federal Laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending effective means of response to the problem; and

(10) evaluating the adequacy of, and make recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women.

SEC. 143. MEMBERSHIP.

(a) IN GENERAL.—The Task Force shall consist of up to 15 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act.

(b) REPRESENTATION.—The Attorney General shall choose members of the Task Force based on their education, training, or experience. The Attorney General shall ensure that the Task Force includes representatives of State and local law enforcement, judicial administration, prosecution, legal experts, persons devoted to the protection of victims' rights, persons providing services to the victims of sexual assault or domestic violence, and survivors of violence.

(c) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments to the Task Force, the Attorney General shall consider the recommendations of the chairman and ranking minority members of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(d) VACANCIES.—A vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

SEC. 144. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General, which date shall not be later than 60 days after the date of enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General, or its chairman-designate, but shall meet at least 6 times.

(b) CHAIRMAN.—Not later than 15 days after the members of the Task Force are appointed, the Attorney General shall designate a chairman from among the members of the Task Force.

(c) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(d) PER DIEM.—Except as provided in subsection (c), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 143, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction

over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) **CONTENTS.**—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Commission Task Force considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) **APPOINTMENT.**—The Task Force shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Task Force, not later than 30 days after the Chairman is selected.

(2) **COMPENSATION.**—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS-15 of the General Schedule contained in title 5, United States Code.

(b) **STAFF.**—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) **CONSULTANTS.**—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

SEC. 146. POWERS OF TASK FORCE.

(a) **HEARINGS.**—For the purpose of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths before the Task Force.

(b) **DELEGATION.**—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) **ACCESS TO INFORMATION.**—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Chairman of the Task Force.

(d) **MAILS.**—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle \$500,000 for fiscal year 1994.

SEC. 148. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 144.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

(a) **RULE.**—The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

“Rule 412A. Evidence of victim’s past behavior in other criminal cases

“(a) **REPUTATION AND OPINION EVIDENCE EXCLUDED.**—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

“(b) **ADMISSIBILITY.**—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim’s past sexual behavior (other than reputation and opinion evidence) may be admissible if—

“(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of the evidence outweighs the danger of unfair prejudice.

“(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

“(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by inserting after the item relating to rule 412 the following new item:

“412A. Evidence of victim's past behavior in other criminal cases:

“(a) Reputation and opinion evidence excluded.

“(b) Admissibility.

“(c) Procedures.”.

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

(a) RULE.—The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

“Rule 412B. Evidence of past sexual behavior in civil cases

“(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

“(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

“(1) it is admitted in accordance with the procedures specified in subdivision (c); and

“(2) the probative value of the evidence outweighs the danger of unfair prejudice.

“(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

“(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, includ-

ing the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

“(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

“(A) the chain of reasoning leading to its finding of relevance; and

“(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

“(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.”.

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 151, is amended by inserting after the item relating to rule 412A the following new item:

“412B. Evidence of past sexual behavior in civil cases:

“(a) Reputation and opinion evidence excluded.

“(b) Admissible evidence.

“(c) Procedures.

“(d) Definitions.”.

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

(a) RULE.—Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

“(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

“(f) RULE OF RELEVANCE AND PRIVILEGE.— If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.”; and

(2) by adding at the end of subdivision (c)(3) the following: “In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.”.

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by adding at the end the item relating to rule 412 the following:

“(e) Interlocutory appeal.

“(f) Rule of relevance and privilege.”.

SEC. 154. EVIDENCE OF CLOTHING.

(a) RULE.—The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

“Rule 413. Evidence of victim’s clothing as inciting violence

“Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim’s clothing is not admissible to show that the alleged victim incited or invited the offense charged.”.

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence, as amended by section 152, is amended by inserting after the item relating to rule 412B the following new item:

“413. Evidence of victim’s clothing as inciting violence.”.

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

“SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

“(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

“(1) educational seminars;

“(2) the operation of hotlines;

“(3) training programs for professionals;

“(4) the preparation of informational materials; and

“(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

“(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$65,000,000 for each of fiscal years 1994, 1995, and 1996.

“(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

“(e) DEFINITION.—For purposes of this section, the term ‘rape prevention and education’ includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

“(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.”

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

- (1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and
- (2) inserting after section 315 the following new section:

“GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

“SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

“(b) **PRIORITY.**—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1994, 1995, and 1996.

“(d) **DEFINITIONS.**—For the purposes of this section—

“(1) the term ‘street-based outreach and education’ includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

“(2) the term ‘street youth’ means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.”

SEC. 164. VICTIM'S RIGHT OF ALLOCATION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking “and” at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting “, and”;

(3) by inserting after subdivision (a)(1)(C) the following new subdivision:

“(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.”;

(4) in the penultimate sentence of subdivision (a)(1), by striking “equivalent opportunity” and inserting “opportunity equivalent to that of the defendant’s counsel”;

(5) in the last sentence of subdivision (a)(1) by inserting “the victim,” before “or the attorney for the Government.”; and

(6) by adding at the end the following new subdivision:

“(f) **DEFINITIONS.**—For purposes of this rule—

“(1) the term ‘victim’ means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocation under subdivision (a)(1)(D) may be exercised instead by—

“(A) a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or

“(B) 1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

“(2) the term ‘crime of violence or sexual abuse’ means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.”.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the “Safe Homes for Women Act of 1993”.

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

“SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

“(a) **IN GENERAL.**—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

“(b) **ACTIVITIES.**—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

“(1) contracting with a carrier for the use of a toll-free telephone line;

“(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

“(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

“(4) publicizing the hotline to potential users throughout the United States.

“(c) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

“(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

“(2) include a complete description of the applicant’s plan for the operation of a national domestic violence hotline, including descriptions of—

“(A) the training program for hotline personnel;

“(B) the hiring criteria for hotline personnel;

“(C) the methods for the creation, maintenance and updating of a resource database; and

“(D) a plan for publicizing the availability of the hotline;

“(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

“(4) contain such other information as the Secretary may require.

“(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant’s ability to offer multi-lingual services and services for the hearing impaired.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

“CHAPTER 110A—VIOLENCE AGAINST SPOUSES

“Sec. 2261. Traveling to commit spousal abuse.

“Sec. 2262. Interstate violation of protection orders.

“Sec. 2263. Interim protections.

“Sec. 2264. Restitution.

“Sec. 2265. Full faith and credit given to protection orders.

“Sec. 2266. Definitions.

“§ 2261. Traveling to commit spousal abuse

“(a) IN GENERAL.—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

“(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course of or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

“(c) PENALTIES.—A person who violates this section shall be punished as follows:

“(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both;

“(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

“(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

“(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c).

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who—

"(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

"(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State, shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF A STATE LINE.—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

“(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court, pursuant to paragraph (2); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.

“(2) For purposes of this subsection, the term ‘full amount of the victim’s losses’ includes any costs incurred by the victim for—

“(A) medical services relating to physical, psychiatric, or psychological care;

“(B) physical and occupational therapy or rehabilitation;

“(C) lost income;

“(D) attorneys’ fees, plus any costs incurred in obtaining a civil protection order; and

“(E) any other losses suffered by the victim as a proximate result of the offense.

“(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

“(A) the economic circumstances of the defendant; or

“(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

“(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

“(i) the financial resources and other assets of the defendant;

“(ii) projected earnings, earning capacity, and other income of the defendant; and

“(iii) any financial obligations of the offender, including obligations to dependents.

“(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant’s restitutionary obligation takes priority over any criminal fine ordered.

“(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim’s other losses before any restitution is paid to any other provider of compensation.

“(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

“(A) any Federal civil proceeding; and

“(B) any State civil proceeding, to the extent provided by the law of the State.

“(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney’s delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney’s delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney’s delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

“(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court’s restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney’s delegee) to submit further affidavits or other supporting documents, demonstrating the victim’s losses.

“(3) If the court concludes, after reviewing the supporting documentation and considering the defendant’s objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge’s chambers.

“(4) If the victim’s losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney’s delegee) shall so inform the court, and the court shall set a date for the final determination of the victim’s losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after dis-

covery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

“(d) **RESTITUTION AND CRIMINAL PENALTIES.**—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

“(e) **DEFINITIONS.**—For purposes of this section, the term ‘victim’ includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

“§ 2265. Full faith and credit given to protection orders

“(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

“(b) **PROTECTION ORDER.**—(1) A protection order issued by a State court is consistent with this subsection if—

“(A) the court has jurisdiction over the parties and matter under the law of the State; and

“(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person’s right to due process.

“(2) In the case of an order under paragraph (1) that is issued *ex parte*, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent’s due process rights.

“(c) **CROSS- OR COUNTER-PETITION.**—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

“(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

“(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

“§ 2266. Definitions

“As used in this chapter—

“(1) the term ‘spouse or intimate partner’ includes—

“(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

“(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser’s acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

“(2) the term ‘protection order’ includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendent lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

“(3) the term ‘act that injures’ includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

“(4) the term ‘State’ includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

“(5) the term ‘travel across a State line’ includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.”

(b) **TECHNICAL AMENDMENT.**—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

“110A. Violence against spouses 2261.”

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

“SEC. 317. ENCOURAGING ARREST POLICIES.

“(a) **PURPOSE.**—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

“(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

“(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

“(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

“(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

“(b) **ELIGIBILITY.**—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

“(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

“(B) certify that their laws or official policies—

“(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

“(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

“(C) demonstrate that their laws, policies, practices and training programs discourage ‘dual’ arrests of abused and abuser;

“(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; and

“(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

“(2) For purposes of this section—

“(A) the term ‘protection order’ includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

“(B) the term ‘spousal or spouse abuse’ includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

“(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

“(c) **DELEGATION AND AUTHORIZATION.**—The Secretary shall delegate to the Attorney General of the United States the Secretary’s responsibilities for carrying out this section. There are authorized to be appropriated not in excess of \$25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

“(d) **APPLICATION.**—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) **REPORTING.**—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) **REGULATIONS.**—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section."

Subtitle D—Domestic Violence, Family Support, and Shelter Grants

SEC. 241. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) **PURPOSE.**—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) **AUTHORIZATION OF GRANTS.**—The Secretary of Health and Human Services shall make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) educational and informational programs relating to domestic violence;

(8) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(9) coalitions of domestic violence service providers, agencies, and programs;

(10) training programs for judges and court personnel in relation to cases involving domestic violence;

(11) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements; and

(12) shelters that provide services for victims of domestic violence and related programs.

(c) **FORMULA GRANTS.**—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) **DISCRETIONARY GRANTS.**—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and

private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) **APPLICATION FOR FORMULA GRANTS.**—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Secretary a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) **CONDITIONS ON GRANTS.**—

(1) **MATCHING FUNDS.**—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) **DURATION OF GRANTS.**—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) **LIMIT ON ADMINISTRATIVE COSTS.**—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) **EVALUATION.**—The Secretary shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the Secretary.

(h) **REPORT.**—The Secretary shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

(1) \$100,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

(j) **AUTHORIZATION OF APPROPRIATIONS FOR THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.**—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

“(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this title \$85,000,000 for fiscal year 1994, \$100,000,000 for fiscal year 1995, and \$125,000,000 for fiscal year 1996.”

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) **SUBMISSION OF APPLICATION.**—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting “and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation” after “such State”.

(b) **APPROVAL OF APPLICATION.**—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

“(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth

under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.”

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 231, is amended by adding at the end the following new section:

“SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

“(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary’s powers to the Secretary of Education (hereafter in this section referred to as the “Secretary”). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

“(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women’s shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

“(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$400,000 for fiscal year 1994.”

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON’S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons’ addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. DEFINITIONS.

Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting “or other supportive services” before “by peers individually or in groups.”

SEC. 282. SPECIAL ISSUE RESOURCE CENTERS.

(a) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking “six” and inserting “seven”.

(b) **FUNCTIONS.**—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(1) by striking the period at the end of paragraph (6) and inserting “, including the issuance and enforcement of protection orders.”; and

(2) by adding at the end the following new paragraph:

“(7) Providing technical assistance and training to State domestic violence coalitions.”.

SEC. 283. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

“(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

“(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

“(B) planning and conducting State needs assessments and planning for comprehensive services;

“(C) serving as an information clearinghouse and resource center for the State; and

“(D) collaborating with other governmental systems which affect battered women.”

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking “and court officials and other professionals” and inserting “, judges, court officers and other criminal justice professionals.”;

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting “, criminal court judges,” after “family law judges,” each place it appears;

(B) in subparagraph (F), by inserting “custody” after “temporary”; and

(C) in subparagraph (H), by striking “supervised visitations that do not endanger victims and their children,” and inserting “supervised visitations or denial of visitation to protect against danger to victims or their children”; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting “, including information aimed at underserved racial, ethnic or language-minority populations” before the semicolon.

Subtitle I—Data and Research

SEC. 291. RESEARCH AGENDA.

(a) **REQUEST FOR CONTRACT.**—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) **DECLINATION OF REQUEST.**—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) **REPORT.**—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Com-

mittee on the Judiciary of the Senate, and the Attorney General's Task Force on Violence Against Women.

SEC. 292. STATE DATABASES.

(a) **IN GENERAL.**—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) **CONSULTATION.**—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) **REPORT.**—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized such sums as are necessary to carry out this section.

SEC. 293. NUMBER AND COST OF INJURIES.

(a) **STUDY.**—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$100,000 for fiscal year 1994.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) **FINDINGS.**—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) **RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.**—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) **CAUSE OF ACTION.**—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term “crime of violence motivated by gender” means a crime of violence committed because of gender or on the basis of gender; and due, at least in part, to an animus based on the victim’s gender;

(2) the term “crime of violence” means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) **LIMITATION AND PROCEDURES.**—

(1) **LIMITATION.**—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) **NO PRIOR CRIMINAL ACTION.**—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) **CONCURRENT JURISDICTION.**—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this title.

(4) **PENDENT JURISDICTION.**—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) **LIMITATION ON REMOVAL.**—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

“(d) A civil action in any State court arising under section 302 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.”.

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking “or” after “Public Law 92–318,”; and

(2) by inserting “, or title III of the Violence Against Women Act of 1993,” after “1964”.

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) **FINDINGS AND DECLARATION.**—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim’s emotional and psychological needs;

(4) rape victims’ need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

“(i) For the purpose of carrying out this part, there are authorized to be appropriated \$20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.”.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the “Equal Justice for Women in the Courts Act of 1993”.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

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

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

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

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

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

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

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

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

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

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

(10) the nature and incidence of domestic violence;

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

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

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

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

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

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

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

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

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

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

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

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle \$600,000 for fiscal year 1994. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) **STUDY.**—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

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

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

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

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

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) **CLEARINGHOUSE.**—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) **MODEL PROGRAMS.**—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated—

(1) \$400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year 1995;

(2) \$100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 521(b).

(b) **THE JUDICIAL CONFERENCE OF THE UNITED STATES.**—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed \$50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than \$200,000 going to any one circuit.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

SEC. 601. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting “; or”; and

(3) by adding after subparagraph (B) the following new subparagraph:

“(C) any felony under chapter 109A or chapter 110.”

SEC. 602. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 18.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (B);

(2) by striking “; and” at the end of subparagraph (C) and inserting “; or”; and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;”

SEC. 603. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault."

SEC. 604. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and"

SEC. 605. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States."

SEC. 606. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

(a) **RULE.**—The Federal Rules of Evidence, as amended by section 154, are amended by adding after rule 413 the following new rule:

"Rule 414. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules."

(b) **TECHNICAL AMENDMENT.**—The table of contents for the Federal Rules of Evidence, as amended by section 4, is amended by inserting after the item relating to rule 413 the following new item:

"414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases."

SEC. 607. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) **STUDY.**—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) **REPORT.**—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) **SUBMISSION OF REPORT.**—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) **DEFINITION.**—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) **AUTHORIZATION OF APPROPRIATION.**—There is authorized to be appropriated \$200,000 to carry out the study required by this section.

SEC. 608. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) **REPORT.**—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) **COMPONENTS OF REPORT.**—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 609. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) **REPORT.**—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) **USE OF COMPONENTS.**—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 610. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 611. REPORT ON FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations, and report to Congress, regarding the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct that—

(1) protect litigants from a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants;

(2) counsel against reliance on generalizations or stereotypes that demean, disgrace, or humiliate on the basis of gender;

(3) protect litigants from a course of conduct intended solely to increase the expense of litigation; and

(4) prohibit counsel from offering evidence that the lawyer knows to be false or from discrediting evidence the lawyer knows to be true.

SEC. 612. REPORT ON FEDERAL RULE OF EVIDENCE 404.

(a) **STUDY.**—Not later than 180 days after the date of enactment of this Act, the Judicial Conference shall complete a study of, and shall submit to Congress recommendations for amending, rule 404 of the Federal Rules of Evidence as it affects the admission of evidence of a defendant's prior sex crimes in cases brought pursuant to chapter 109A or other cases involving sexual misconduct.

(b) **SPECIFIC ISSUES.**—The study described in subsection (a) shall include—

(1) a survey of existing law on the introduction of prior similar sex crimes under State and Federal evidentiary rules;

(2) a recommendation concerning whether rule 404 should be amended to introduce evidence of prior sex crimes and, if so—

(A) whether such acts could be used to prove the defendant's propensity to act therewith; and

(B) whether evidence of prior similar sex crimes should be admitted for purposes other than to show character;

(3) a recommendation concerning whether evidence of similar acts, if admitted, should meet a threshold of similarity to the crime charged;

(4) a recommendation concerning whether evidence of similar acts, if admitted, should be limited to a certain time period, (such as 10 years); and

(5) the effect, if any, of the adoption of any proposed changes on the admissibility of evidence under rule 412 of the Federal Rules of Evidence.

SEC. 613. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) **IN GENERAL.**—The Attorney General may, in each fiscal year, award an aggregate amount of up to \$1,000,000 to a State that meets the eligibility requirements of subsection (b).

(b) **ELIGIBILITY.**—The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws or policies relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Provision of training and policy development programs for law enforcement officers, prosecutors, and judges concerning the investigation and prosecution of sexual offenses.

(2) Authorization of law enforcement and prosecutorial units and teams that target sexual violence.

(3) Funding of victim services programs for victims of sexual violence.

(4) Authorization of educational and informational programs relating to sexual violence.

(5) Authorization of pretrial detention of defendants in sexual assault cases where provision of flight or the safety of others cannot be reasonably assured by other means.

(6) Authorization of serious penalties for nonconsensual sexual assault offenses.

(7) Payment of the cost of medical examinations and testing by the victim for sexually transmitted diseases.

(8) Provision of rape shield protection to ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior in sexual assault cases.

(9) Provision of rules of professional conduct intended to protect against a course of conduct intended solely for the purpose of distressing, harassing, embarrassing, burdening, or inconveniencing litigants in sexual assault cases.

(10) Authorization of the presence of the victim in the courtroom at the time of trial and provides for the victim's addressing the court concerning the sentence to be imposed.

(11) Authorization of awards of restitution to victims of sexual assaults as part of a criminal sentence.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this section.

I. PURPOSE

Senator Biden first introduced the Violence Against Women Act in 1990 in response to the escalating problem of violence against women. Perhaps the greatest threat to our Nation is the increasing problem of violent crime that afflicts all people: men, woman, young, and old. Women in America suffer all the crimes that plague the Nation—muggings, car thefts, and burglaries, to name a few. But there are also some crimes, including rape and family violence, that disproportionately burden women. Violence against women reflects as much a failure of our Nation's collective willingness to confront the problem as it does the failure of the Nation's laws and regulations. Both our resolve and our laws must change if women are to lead free and equal lives.

The statistics show how far we are from that goal: In 1991, at least 21,000 domestic crimes were reported to the police every week; at least 1.1 million reported assaults—including aggravated assaults, rapes, and murders—were committed against women in their homes that year; unreported domestic crimes have been estimated to be more than three times this total.¹

¹ Violence Against Women: A Week in the Life of America, prepared by the majority staff of the Senate Judiciary Committee at 4 (October 1992).

Every week, during 1991, more than 2,000 women were raped, and more than 90 women were murdered—9 out of 10 by men. Women are six times more likely than men to be the victim of a violent crime committed by an intimate; estimates indicate that more than one of every six sexual assaults a week is committed by a family member.²

Violence is the leading cause of injuries to women ages 15 to 44, more common than automobile accidents, muggings, and cancer deaths combined.³ As many as 4 million women a year are the victims of domestic violence.⁴ Three out of four women will be the victim of a violent crime sometime during their life.⁵

Our laws, policies, and attitudes remain inadequate in the face of the epidemic of violence against women. We live in a country where:

There are three times as many animal shelters as battered women's shelters.⁶

Almost one-quarter of convicted rapists never go to prison and another quarter received sentences in local jails where the average sentence is 11 months.⁷

A recent survey of teenagers showed high levels of approval of violence: almost 10 percent of the students surveyed said they approved of a husband hitting his wife "if she would not listen to reason"; and more than 12 percent approved of a wife hitting a husband in a similar situation.⁸

The Violence Against Women Act is intended to respond both to the underlying attitude that this violence is somehow less serious than other crime and to the resulting failure of our criminal justice system to address such violence. Its goals are both symbolic and practical; the act is intended to educate the public and those within the justice system against the archaic prejudices that blame women for the beatings and the rapes they suffer; to the women the support and the assurance that their attackers will be prosecuted; and to ensure that the focus of criminal proceedings will concentrate on the conduct of the attacker rather than the conduct of the victim.

Most importantly, the act provides, for the first time, a Federal civil rights remedy aimed at violent gender-based crimes. It is time for attacks motivated by gender basis to be considered as serious as crimes motivated by religious, racial, or political bias. The provision's purpose is to provide an effective anti-discrimination remedy for violently expressed gender prejudice.

²Id. at 2.

³Surgeon General Antonio Novello, "From the Surgeon General, U.S. Public Health Services," *Journal of the American Medical Association*, vol. 267, No. 23, at 3132 (June 17, 1992).

⁴Testimony of Dr. Angela Browne before the Committee on the Judiciary, U.S. Senate, Senate Hearing 101-939, part 2, 101st Cong., 2d sess., Dec. 11, 1990, at 116-117.

⁵U.S. Department of Justice, Report to the Nation on Crime and Justice, 29 (2d ed., 1988).

⁶"Violence Against Women: A Week in the Life of America", prepared by the majority staff of the Senate Judiciary Committee, at 39 (October 1992).

⁷"The Response to Rape: Detours on the Road to Equal Justice", prepared by the majority staff of the Senate Judiciary Committee, at 2 (May 1993).

⁸"Violence Against Women: A Week in the Life of America", prepared by the majority staff of the Senate Judiciary Committee, at 40 (October 1992), citing "Adolescents May Experience Home, School Abuse", *Journal of the American Medical Association*, vol. 267, No. 23, at 3127-28 (June 17, 1992).

II. LEGISLATIVE HISTORY

A. Background

On January 21, 1993, Chairman Biden, joined by 42 Senators, including Senators Boxer, Kennedy, Kohl, Simon, DeConcini, Leahy, and Moseley-Braun, introduced S. 11, the Violence Against Women Act of 1993. On February 24, 1993, Representative Patricia Schroeder, joined by 60 Members of the House of Representatives, introduced a companion bill, H.R. 1133.

S. 11 is substantially similar to legislation Senator Biden introduced in the 102d Congress, S. 15, and in the 101st Congress, S. 2754. The Judiciary Committee held three hearings on S. 2754 during the 101st Congress. At the first hearing, held on June 20, 1990, victims testified about the tragic personal costs of violence against women, and experts in the field discussed the many obstacles victims face in the successful prosecution of those crimes. The second hearing, held on August 29, 1990, examined the particular vulnerability of young women to sexual assault. The third hearing, held on December 11, 1990, focused on family violence from the perspective both of survivors of abuse of professionals working to meet the needs of these women.

At the October 4, 1990, executive business meeting, Senator Biden offered a substitute bill for S. 2754 that included provisions authorized by Senators Simon and Coats. The Judiciary Committee reported the bill favorably by voice vote.⁹ No other action was taken on the bill prior to the end of the 101st Congress.

During the 102d Congress, the Judiciary Committee held one hearing on S. 15 on April 9, 1991. This hearing examined the bill's civil rights remedy for gender-motivated crimes. The Honorable Roland Burris, attorney general of Illinois, and the Honorable Bonnie Campbell, attorney general of Iowa, testified in support of a comprehensive Federal response to violence against women, particularly the need for a civil rights remedy. Gill Freeman, vice-chair of the Florida Supreme Court Gender Bias Implementation Committee, and Amy Kaylor, a survivor of abuse, testified about the failings of the criminal justice system's response to violence against women and the need for S. 15's comprehensive response to these problems. In addition, Prof. Cass Sunstein of the University of Chicago School of Law and Prof. Burt Neuborne of the New York University School of Law testified that the Congress has the authority to enact a civil rights remedy for gender-motivated crimes.

A modified version of S. 15 was offered by Chairman Biden at the July 18, 1991, Judiciary Committee's executive business meeting. This substitute bill included provisions authored by Senators Kohl, DeConcini, and Reid. The bill was reported favorably out of committee by voice vote after two amendments by Senator Grassley were adopted.¹⁰ No other action was taken on S. 15 before the end of the 102d Congress.

⁹See S. Rept. 101-545.

¹⁰See S. Rept. 102-197.

B. Introduction and Consideration of S. 11

After consideration of comments submitted by groups and individuals, including other Senators, Chairman Biden introduced S. 11, a modified version of S. 15, on the first day of the legislative session in the 103d Congress. In addition to making minor technical amendments, Senator Biden added a provision authored by Senator Kennedy providing funding for a national domestic violence hotline.

On the first day of the legislative session, Senator Hatch introduced S. 8 which, among other things, addressed sexual violence, child abuse, and victims' rights. This bill and S. 11 were the subject of a field hearing chaired by Senator Hatch held in Salt Lake City, UT, on April 13, 1993. This hearing examined the similar provisions of both bills as well as the unique problems faced by female victims in Utah. The committee heard from victims Terri Orr and Loretta Baca of Salt Lake City, UT, and Georgia Hare of Fillmore, UT. These women testified about the difficulties female victims of crime face in obtaining assistance and the inadequacy of the criminal justice system's response to women victims.

Commissioner Sandra N. Peuler and Judge Michael Murphy of the Third District Court in Salt Lake City, UT, were joined by Lt. Michael Murphy of the Salt Lake City Police Department, Kimberly K. Hornak of the Salt Lake County Attorney's Office, and Kristina Knowlton of the Weber County Attorney's Office, who gave detailed testimony regarding the problems with our criminal justice system, including the bureaucratic hurdles women victims face, as well as the need for sexual assault prosecution units.

Debra Daniels of the Salt Lake City YWCA; Barbara Wood, executive director of Turning Point; Patricia Milland, a Monroe, UT, behavioral specialist; Leroy Franke of the Family Services Division of the Utah Department of Human Services; Diane Stuart, the director of the Logan, UT, Citizens Against Physical and Sexual Abuse; and Karen Nielsen, the statewide coordinator for Volunteer Advocates for Victims of Domestic Violence, testified about the need for additional Federal resources to fight violence against women and domestic violence. The panel also discussed the needs of rural areas of the country and expressed support for the establishment of a Federal civil rights cause of action for crimes of violence motivated by a hatred for women.

At the Judiciary Committee's May 27, 1993, executive business meeting, the Chairman offered a Biden-Hatch amendment in the nature of a substitute. This substitute bill was the product of extensive discussions between the chairman and Senator Hatch. Also included in many discussions were Senator Dole and Judge Stanley Marcus, U.S. District Court Judge for the Southern District of Florida, of the Judicial Conference's Ad Hoc Committee on Gender Based Violence. The Biden-Hatch amendment included a number of refinements to S. 11, as well as several provisions authored by Senator Hatch on sexual assault and domestic violence. No amendments were submitted, and the bill was reported favorably out of committee by voice vote.

III. DISCUSSION

A. *The Violence Against Women Act*

The Violence Against Women Act represents an essential step in forging a national consensus that our society will not tolerate violence against women. The act recognizes that many women fear for their safety whether they are at home, on the street, or at school. Women are at risk from those who know them and from those who do not.

But nowhere is the habit of violence harder to break than in the home. Until the 20th century, our society effectively condoned family violence, following a common-law rule known as the "rule of thumb," which barred a husband from "restraining a wife of her liberty by chastisement with a stick thicker than a man's thumb."¹¹ This rule, originally intended to protect women from excessive violence, in fact led to a reluctance on the part of government to interfere to protect women even where serious violence occurred.

The legacy of societal acceptance of family violence endures even today. In cases where a comparable assault by a stranger on the street would lead to a lengthy jail term, a similar assault by a spouse will result neither in arrest nor in prosecution. For example, a 1989 study in Washington, DC, found that in over 85 percent of the family violence cases where a woman was found bleeding from wounds, police did not arrest her abuser.¹² Moreover, family violence accounts for a significant number of murders in this country. One-third of all women who are murdered die at the hands of a husband or boyfriend.¹³

National reporting agencies confirm the serious nature of this violence. According to the U.S. Department of Justice, one-third of domestic attacks, if reported, would be classified as felony rapes, robberies, or aggravated assaults. Of the remaining two-thirds classified as simple assaults, almost one-half involved "bodily injury at least as serious as the injury inflicted in 90 percent of all robberies and aggravated assaults."¹⁴

Our society pays a heavy price for this violence: 1 million women a year seek medical attention for injuries caused by violence at the hands of a male partner; children in homes with family violence are 15 times more likely to be abused or neglected than children in peaceful homes; and finally, estimates suggest that we spend \$5 to \$10 billion a year on health care, criminal justice, and other social costs of domestic violence.¹⁵ Indeed, for the past 4 years, the U.S. Surgeons General have warned that family violence—not

¹¹ Biden, "Domestic Violence, A Crime, Not a Quarrel", Trial at 56 (June 1993), citing Sir William Blackstone, Commentaries on the Laws of England, quoted in Susan G. Bell and Karen M. Offens, "Women, The Family and Freedom: The Debate in Documents", at 4 (1983).

¹² Id. at 56, citing Karen Baker, et al., joint project, D.C. Coalition Against Domestic Violence and the Woman's Law and Public Policy Fellowship Program at Georgetown Univ. Law Center, "Report on D.C. Police Response to Domestic Violence", at 44 (Nov. 3, 1989).

¹³ Id. at 56, citing United States Department of Justice, FBI Crime in the United States 1991: Uniform Crime Reports at 19 (1992).

¹⁴ Id. at 56, citing U.S. Department of Justice, National Institute of Justice, "Civil Protection Orders: Legislation, Current Court Practice and Enforcement" at 4 (1990).

¹⁵ Id. at 56.

heart attacks or cancer or strokes—poses the single largest threat of injury to adult women in this country.¹⁶

Unfortunately, the response of the legal system to crimes against women has remained inadequate. A few States still fail to recognize rape of a spouse as a criminal act; other States do not prosecute husbands for rape unless a wife suffers “additional degrees of violence like kidnapping or being threatened with a weapon;”¹⁷ others classify rape of a spouse as a less serious crime with lesser penalties.

Outside the family violence arena, victims of rape are often unable to find either justice or protection in the criminal justice system. From the initial report to the police through prosecution, trial, and sentencing, crimes against women are often treated differently and less seriously than other crimes. Police may refuse to take reports; prosecutors may encourage defendants to plead to minor offenses; judges may rule against victims on evidentiary matters; and juries too often focus on the behavior of the survivors—laying blame on the victims instead of on the attackers. At every step of the way, the criminal justice system poses significant hurdles for victims of sexual assault.

A look at the numbers is telling: over 60 percent of rape reports do not result in arrests;¹⁸ and a rape case is more than twice as likely to be dismissed as a murder case and nearly 40 percent more likely to be dismissed than a robbery case.¹⁹ Less than half of the individuals arrested for rape are convicted of rape.²⁰ In comparison, 69 percent of those arrested for murder are convicted of murder, and 61 percent of those arrested for robbery are convicted of robbery.²¹ Finally, over one-half of all convicted rapists serve an average of only 1 year or less in prison.²²

The Nation’s misconception that crimes against women are second-class crimes needs to change. Americans need to brand these attacks as brutal and wrong; we need to prosecute and punish those who perpetrate the attacks.

The Violence Against Women Act is designed to remedy not only the violent effects of the problem, but the subtle prejudices that lurk behind it. None of the proposals in the bill, alone or together, are likely to end violence against women. The legislation is, however, a first step in developing a national consensus that society will not tolerate such violence.

1. TITLE I—SAFE STREETS FOR WOMEN

Title I—the Safe Streets for Women Act—signals that crimes against women must be taken seriously as a law enforcement priority. First, this title doubles the sentences for repeat offenders. Second, the title makes significant improvements in the Federal sys-

¹⁶Id. at 56.

¹⁷Russell, Diana E.H., “Rape in Marriage”, Indiana University Press: Bloomington, Indiana, 1990, at 21–23.

¹⁸“The Response to Rape: Detours on the Road to Equal Justice”, prepared by the Majority Staff of the Senate Judiciary Committee, at 30 (May 1993).

¹⁹Id. at 31.

²⁰Id. at 35.

²¹Id. at 35. (The average conviction for all felonies, according to the Bureau of Justice Statistics, hovers in the 54-percent range. U.S. Department of Justice, Bureau of Justice Statistics, The Prosecution of Felony Arrests, 1988 (February 1992..))

²²Id. at 2.

tem's response to rape by expanding existing evidentiary protections to ensure that no Federal criminal trial becomes a showcase for the victim's sexual history. Third, this title insures that States will have the necessary resources to target these crimes as a top law-enforcement priority, providing a total of \$300 million to States and areas most in need of assistance. Fourth, this title takes simple, but necessary measures to increase safety for women in public parks and on public transit. Existing funding is earmarked to put more lights and security cameras in bus stops and adjacent parking lots, in national parks, State parks, and subway stations. Fifth, this title recognizes that we cannot combat violent crimes against women effectively unless we begin to change the attitudes that nurture violence. Accordingly, title I authorizes a twentyfold increase in funding for rape prevention and education, targeting students as early as junior high school.

This title also includes several additions to the bill that are the product of discussions between the chairman and Senator Hatch. The U.S. Sentencing Commission is to review and recommend amendments to its guidelines where appropriate to enhance penalties for sexual abuse and aggravated sexual assault. In addition, the bill mandates restitution to the victims of sexual exploitation and sexual assault. Finally, a Justice Department task force on violence against women shall be established. This task force, to be known as the Attorney General's Task Force on Violence Against Women, will recommend Federal, State, and local strategies for preventing and providing sanctions for violent crime against women, including the enhancement and protection of the rights of victims of this crime.

2. TITLE II—SAFE HOMES FOR WOMEN

Title II—the Safe Homes for Women Act—focuses on crimes of domestic violence. Gaps in the legal protection offered to victims of domestic violence have been highlighted in the last two decades, but States and localities have not addressed the issue sufficiently. Title II responds to the call for national leadership on this issue in five ways.

First, Senator Kennedy has authored a provision that authorizes funds for a national toll-free hotline to provide information and assistance to victims of domestic violence. Second, title II creates a Federal remedy for interstate crimes of abuse including crimes committed against spouses or intimate partners during interstate travel and crimes committed by spouses or intimate partners who cross State lines to continue the abuse. Third, title II, recognizing the potency of protective orders as a remedy for domestic violence,²³ closes a major loophole by requiring that each State honor

²³ Several studies suggest that two-thirds to three-quarters of perpetrators subject to protective orders do not repeat their violent behavior during the period of the order. Barbara J. Hart, *State Codes on Domestic Violence: Analysis, Commentary and Recommendations* at 24 (1992), citing Chaduri, M., and Daly, K., "Do Restraining Orders Help? Battered Women's Experience with Male Violence and the Legal Process," *Domestic Violence: The Changing Criminal Justice Response* (eds. E. Buzawa and C. Buzawa, 1991); Finn, P., and Colson, S., "Civil Protection Orders: Legislation, Current Court Practice, and Enforcement," *Issues and Practices in Criminal Justice*, Washington, DC: National Institute of Justice (1990), at 1, 2, and 33; Herrell, S.B., and Hofford, M., *Family Violence: Improving Court Practice*, Reno, NV: National Council of Juvenile and Family Court Judges at 22 (1990).

the protective orders issued by other States. Fourth, the act recognizes that the Federal Government needs to provide more resources to fight domestic violence. Coupled with the funds available for domestic violence under title I, title II provides much needed Federal assistance, including substantial funding, for battered women's shelters. Moreover, title II now incorporates a \$100 million domestic violence and family support program authored by Senator Hatch and aimed at improving State and local efforts to prevent and punish domestic violence. Fifth, title II provides significant incentives to encourage States to treat domestic violence as a serious crime. For States suffering from a strain on their systems due to increased arrests, the bill provides funding to centralize and systemize the process. For States seeking more wide-ranging solutions, this title creates a model State program, encouraging comprehensive reform in arrest, prosecution, and judicial policies.

3. TITLE III—CIVIL RIGHTS FOR WOMEN

Title III—the Civil Rights Remedies for Gender-Motivated Violence Act—creates the first civil rights remedy aimed at violent gender-based discrimination. It allows people to vindicate their right to be free of gender-based violent crime through civil suits for monetary or other relief. This provision recognizes that State remedies are inadequate to fight bias crimes against women and, at the same time, sends a powerful message that violence due to gender bias affronts an ideal of equality shared by the entire Nation.

This title also includes a sense of the Senate revolution, authored by Senator Grassley, on the privacy of rape victims' names.

4. TITLE IV—SAFE CAMPUSES FOR WOMEN

Title IV—the Safe Campuses for Women Act—authorizes \$20 million in Federal grant moneys to be spent pursuant to the Higher Education Bill, 20 U.S.C. 1145h(i). It is designed to ensure that the special problems facing young women on campuses are confronted. According to some estimates, one in seven college women has been raped.²⁴ This grant program seeks to assist colleges and universities in addressing this crime.

5. TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS

Title V—the Equal Justice for Women in Courts Act—is a response to the reports of numerous task forces that have identified widespread gender bias in the courts, particularly in cases of rape and domestic violence.²⁵

At least in part, State remedies fail because legal rules and practices continue to shine a spotlight of suspicion on the victim. Any person would think twice before reporting and prosecuting a crime

²⁴ Testimony of Attorney General Bonnie Campbell, Iowa, hearing before the Committee on the Judiciary, U.S. Senate, "Violence Against Women: Victims of the System", 102d Cong., 1st sess., at 34 (Apr. 9, 1991).

²⁵ Final Report of the Equality in the Courts Task Force, State of Iowa at 150 (February 1993) (domestic violence); Administrative Office, Judicial Council of the Courts of California; "Achieving Equal Justice for Women and Men in the Courts: The Draft Report of the Judicial Council Advisory Committee on Gender Bias in the Courts" at 5 (gender bias in domestic violence cases) (1993); Report of the Task Force of Connecticut, "Gender, Justice and the Courts" at 76-77 (gender bias in cases of sexual assault) (1991); A Report to the Supreme Court of Georgia by the Commission on Gender Bias in the Judicial System, "Gender and Justice in the Courts" at 93 (gender bias in rape cases) (August 1991).

if the police responded by demanding a polygraph exam, the prosecutor suggested that the victim had not complained promptly enough, the defense counsel charged that the victim was emotionally unbalanced, and the judge announced to the jury at the end of the trial that the victim's testimony under oath should be viewed with suspicion. These problems are largely unique to sexual assault victims. As one scholar summed it up, "[v]ictims of other crimes are simply not treated with such suspicion."²⁶

Even if legal rules and practices which have a chilling effect on victims of family violence and sexual assault are eradicated tomorrow, prosecution and reporting rates for rape will continue to lag. Studies indicate that, despite decades of legal reform, there has been no significant increase in either the percentage of rape complaints that result in conviction, or in rape arrest rates.²⁷ Many still believe Lord Hale's 300-year-old credo that rape is a charge "easily to be made and hard to be proved, and harder to be defended by the party accused tho' ever so innocent."²⁸

Studies from a number of States report "pervasive suspicion of rape victims' credibility," infecting the criminal justice system at every step of the way.²⁹ Judges and juries expect more corroboration in sexual assault cases than in other cases of a similar class even when there is no such legal requirement.³⁰ For example, a 1990 Colorado Supreme Court study showed that 41 percent of judges surveyed believed that juries gave sexual assault victims less credibility than other crime victims.³¹ Moreover, juries are far more likely to convict, perhaps four times as likely, in a stranger rape case than in an acquaintance rape case.³²

Judges, juries, prosecutors, and police officers question the credibility of rape victims based on a number of circumstantial matters that are irrelevant in determining whether a criminal act occurred. For example, they may require a woman: to have physical injuries; to tell a consistent story; to be willing to take a lie detector test,

²⁶Note, "The Empirical, Historical and Legal Case Against the Cautionary Instruction: A Call For Legislative Reform", 1988, Duke L.J. 154, 163 ("Imagine a bank robber acquitted because he was tempted by the money in the bank or an aggravated assault charge dropped because the victim was small and presented an inviting target.")

²⁷Parrot, Andrea, and Laurie Bechhofer, ed. "Acquaintance Rape: The Hidden Crime" at 326 (1991), citing W.D. Lohr, "The Impact of Common Law and Reform Rape Statutes in Prosecution: An Empirical Study", 55 Wash. L. Rev. 543 (1980); and Kenneth Polk, "Rape Reform and Criminal Justice Processing, 31 Crime & Delinquency" 191 (1985).

²⁸Hale, Lord Matthew, "History of the Pleas of the Crown" (1680) (Emlyn ed. 1847); see *Illinois v. Phillips*, 181 Ill. App.3d 144, 152 (1989) (dissent) for recent approbation of Lord Hale's infamous remark ("This statement has been approved by this court * * * it is just as accurate and viable today as it was when it was first uttered by Lord Hale.")

²⁹Illinois Task Force, "Gender Bias in the Courts" at 99 (1990); see also Report of the Task Force of Connecticut, "Gender, Justice and the Courts" at 76-77 (a majority of the attorneys surveyed stated that, "at least sometimes, sexual assault victims are accorded less credibility than victims of other types of assault.") (1991); Louisiana Task Force on Women in the Courts, Final Report at 99-100, n. 157 ("Attempts to blame the victim are not uncommon.") (1992); Kentucky Task Force on Gender Fairness in the Courts, Equal Justice for Women and Men at 36-37 ("no other felony puts such a burden on the victim to prove the crime occurred.") (Jan. 13, 1992); A Report to the Supreme Court of Georgia by the Commission on Gender Bias in the Judicial System, Gender and Justice in the Courts at 93 (rape victims "credibility is significantly diminished from the outset only because of their status as the female victim of rape.") (August 1991).

³⁰See Final Report of the Michigan Supreme Court Task Force on Gender Issues in the Courts; Illinois Task Force, "Gender Bias in the Courts" at 99 (1990).

³¹Colorado Supreme Court Task Force on Gender Bias in the Courts, "Gender and Justice in the Colorado Courts" at 91 (1990).

³²"The Response to Rape: Detours on the Road to Equal Justice", prepared by the Majority Staff of the Committee on the Judiciary, at 35 (May 1993), citing Harry Kalven and Hans Zeisel, *The American Jury* (1966), and Susan Estrich, *Real Rape*, at 4 (1987).

to not have waited for more than 48 hours before reporting the incident, to not have engaged in premarital or extramarital sex, to have had no previous social contact with her assailant, and not to have reached the location of the rape voluntarily. These factors move the focus from the attacker—where it should be—to the behavior of the victim.

In addition to the burdensome credibility issues, rape survivors must also face unique victim-blaming attitudes. When the victim is a woman and the crime is rape, there is too often a tendency to suggest that the victim somehow encouraged the attack. In one Louisiana case, the sheriff responding to the scene where an attacker had shoved a screwdriver three inches into the victim's stomach and raped her with both the screwdriver and his body, insisted that the victim must have "incited" or "provoked" the attacker.³³ Several studies have shown that investigators hold victims to a higher standard of behavior than the law requires.³⁴

Similarly, an Iowa Task Force report noted that some judges question the character of victims of family violence or tend to blame victims for not leaving their abusers.³⁵ A judge who is confident in controlling his or her own life and circumstances, the task force found, may find it difficult to understand the circumstances and responses of a battered woman. Too often, the focus is on the woman's behavior—"Why does she stay?"—instead of an examination of why men batter and why our culture and the justice system often allow men to continue this illegal behavior.³⁶

As another example, a California Task Force reported that "police officers, district and city attorneys, court personnel, mediators, and judges—the justice system—treated the victims of domestic violence as though their complaints were trivial, exaggerated or somehow their own fault."³⁷ Some judges and court personnel approach domestic violence cases, whether consciously or unconsciously, with assumptions based not on personal experience or the facts of a particular case but on stereotypes and biases.³⁸ Judges and court personnel may also lack information about the psychological, economic, and social realities of domestic violence victims.³⁹ Gender bias contributes to the judicial system's failure to afford the protection of the law to victims of domestic violence.⁴⁰

A particularly cruel irony is that some women who have run to shelters or friends seeking safety for themselves and their children have later been viewed by courts as unable to provide a stable home for their children and are subsequently penalized during divorce and/or custody proceedings.⁴¹

³³Louisiana Task Force on Women in the Courts, *Final Report* at 99, n. 157 (1992).

³⁴J. LeDoux and R. Hazelwood, "Police Attitudes and Beliefs Toward Rape", 13 J. Police Science and Admin. 211, 212 (1985).

³⁵"Final Report of the Equality in the Courts Task Force", State of Iowa, at 151 (February 1993).

³⁶*Id.* at 151.

³⁷"Achieving Equal Justice for Women and Men in the Courts: The Draft Report of the Judicial Council Advisory Committee on Gender Bias in the Courts", prepared by the Administrative Office of the Judicial Council of the Courts of California, at 5 (1993).

³⁸*Id.* at 5.

³⁹"Achieving Equal Justice for Women and Men in the Courts: The Draft Report of the Judicial Council Advisory Committee on Gender Bias in the Courts", prepared by the Administrative Office of the Judicial Council of the Courts of California, at 5 (1993).

⁴⁰*Id.* at 5.

⁴¹Report of the Connecticut Task Force, "Gender, Justice and the Courts" at 106 (1991).

Finally, in some States the law itself continues to discriminate directly against some classes of victims. Two States still do not recognize rape of a spouse as a crime.⁴² According to one study many States do not prosecute husbands if the wife did not suffer "additional degrees of violence like kidnapping or being threatened with a weapon."⁴³ Moreover, some States do not prosecute husbands for rapes that occur when the wife is unconscious, drugged, asleep, ill, or physically or mentally helpless.⁴⁴

The Equal Justice for Women in the Courts Act provides training for State and Federal judges on a number of issues, including sexual assault, domestic violence, and gender and racial stereotyping. Training curricula must be developed in conjunction with a broad array of experts, including law enforcement officials, volunteer victim advocates, prosecutors, defense attorneys, and other legal experts.

Additionally, in an effort to gain a better understanding of the nature and extent of gender bias in the Federal courts and with the aim of educating judges and reducing such bias, this title also encourages the circuit judicial conferences to conduct studies of gender bias within their respective circuits and disseminate the results of those studies.

6. TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

Title VI—the Violence Against Women Act Improvements—is based on several proposals sponsored by Senator Hatch, working with Senator Dole. Importantly, the title authorizes pretrial detention for Federal sex offenses and expands on the bill to exclude from evidence not only clothing, but all evidence introduced to show that the victim incited or provoked the sexual assault. It also requires the Government to pay for the costs of sexual assault victims' human immunodeficiency tests, as well as the costs of any related counseling session.

This title also authorizes several additional reports. The Attorney General is to conduct studies regarding: the prevalence of sexual assault on college campuses; how battered women can keep their addresses or locations confidential; the status of battered women's syndrome as a medical and psychological condition, as well as its effect on criminal trials; and the problems of recordkeeping regarding criminal complaints in family violence cases. The title also requires the Judicial Conference to report back to Congress on whether Federal Rule of Evidence 404 should be amended to admit evidence of an alleged rapist's prior sex crimes in rape trials. In addition, the Judicial Conference is to consider whether Federal rules of ethics ought to be created for lawyers in Federal cases involving

⁴² According to the NOW Legal Defense and Education Fund, as of Sept. 10, 1992, the District of Columbia and all States except Oklahoma and North Carolina recognize some marital rapes as crimes. (Memorandum on file with the Senate Judiciary Committee.)

⁴³ Russell, Diana, E.H., "Rape in Marriage", Bloomington, Indiana: Indiana University Press, at 21-23, 1990.

⁴⁴ *Id.* According to Russell, at least 26 States do not classify as a crime rape of a spouse, although the act would be prosecutable outside a marital context: Arizona, California, Connecticut, Delaware, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Montana, Nevada, New Hampshire, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, West Virginia, Wyoming. These States do not allow a spouse's prosecution for forcible rape when it occurs without aggravating factors such as the use of a weapon. Nor is prosecution allowed for nonforcible rape when the victim is unconscious, drugged, asleep or otherwise physically or mentally incapacitated.

sexual misconduct. The proposed rules of ethics would protect litigants from distressing or harassing conduct; prohibit activity designed solely to increase the costs of litigation; and prohibit counsel from offering evidence that the lawyer knows to be false. Finally, the bill authorizes supplementary grants of up to \$1 million to those States enacting laws similar or stronger than Federal laws relating to sexual violence.

B. The Civil Rights Remedy—Protection Against Violent Gender-Based Discrimination

Because many questions have been raised regarding title III, this section provides an extensive discussion of the committee's purpose in creating a civil rights remedy for gender-motivated violent crimes, as well as a discussion of the scope of the cause of action authorized by this title.

Title III of the Violence Against Women Act provides the first Federal civil rights remedy for gender-based violent crimes, allowing any victim of such a crime to bring a civil action against her attacker in Federal court for damages and other relief. Congress has the power to recognize that violence motivated by gender bias "is not merely an individual crime or a personal injury, but is a form of discrimination."⁴⁵ With the passage of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), Congress recognized an important Federal interest in battling gender discrimination and acted to bar that discrimination in the workplace. The Violence Against Women Act recognizes that gender discrimination may take the form not only of a lost pay raise or promotion, but also a violent, criminal attack.

1. THE PURPOSE: A CIVIL RIGHTS REMEDY FOR GENDER-MOTIVATED CRIMES

Over a century ago, society declared that it would not tolerate attacks against persons because of their race, religion, or national origin. Congress passed the first civil rights laws barring such discrimination in 1871.⁴⁶ Traditional civil remedies against violent discrimination, however, have been largely unavailable to victims of gender-based attacks.

More recent legislation has not filled the "gender gap" left by traditional anti-bias crime laws. In the past 10 years, almost every State has passed laws that increase criminal penalties, some of which also provide civil remedies for the victims of hate crimes, but less than a dozen cover gender bias.⁴⁷ In 1990, the Congress passed the Hate Crimes Statistics Act, requiring the collection of statistics on crimes motivated by race, ethnicity, national origin, and sexual orientation. Gender-motivated crimes were not mentioned.⁴⁸

⁴⁵"Women and Violence", hearings before the Committee on the Judiciary, U.S. Senate, 101st Cong., 2d sess. (written testimony of Helen Neuborne) (June 20, 1990).

⁴⁶Ku Klux Klan Act of 1871.

⁴⁷See "National Organization for Victim Assistance, A Legislative Directory 1988/1989" (indicating California and New York hate crimes laws cover, in part, gender bias). According to the Anti-Defamation League of B'nai B'rith, only 10 States, California, Connecticut, Michigan, Minnesota, New Hampshire, New York, North Dakota, Iowa, Vermont, and West Virginia, now include gender bias in their hate crimes laws. "Hate Crimes Statutes: A 1991 Status Report", ADL Law Report (1991).

⁴⁸The Hate Crimes Statistics Act of 1990, Public Law 101-275.

The Violence Against Women Act aims to consider gender-motivated bias crimes as seriously as other bias crimes. Whether the attack is motivated by racial bias, ethnic bias, or gender bias, the results are often the same. The victims of such violence are reduced to symbols of hatred; they are chosen not because of who they are as individuals but because of their class status. The violence not only wounds physically, it degrades and terrorizes, instilling fear and inhibiting the lives of all those similarly situated. "Placing this violence in the context of the civil rights laws recognizes it for what it is—a hate crime."⁴⁹

Given the failure of recent legislative proposals to recognize gender-motivated crime, it is especially important to acknowledge its discriminatory dimensions now. As Illinois Attorney General Roland Burris testified before the committee: "Until women as a class have the same protection offered others who are objects of irrational, hate-motivated abuse and assault, we as a society should feel humiliated and ashamed."⁵⁰

2. THE NEED: OTHER STATE REMEDIES ARE INADEQUATE

Other State remedies have proven inadequate to protect women against violent crimes motivated by gender animus. Women often face barriers of law, of practice, and of prejudice not suffered by other victims of discrimination.⁵¹

Traditional State law sources of protection have proved to be difficult avenues of redress for some of the most serious crimes against women. Study after study has concluded that crimes disproportionately affecting women are often treated less seriously than comparable crimes affecting men.⁵² "[C]ollectively, these reports provide overwhelming evidence that gender bias permeates the court system and that women are most often its victims."^{53 54}

The committee is not asserting that all crimes against women are gender-motivated. As discussed below, title III requires subjec-

⁴⁹"Violence Against Women: Victims of the System," hearings before the Committee on the Judiciary, U.S. Senate, 101st Cong., 2d sess. (testimony of Prof. Burt Neuborne) (Apr. 9, 1991).

⁵⁰Id. Testimony of Attorney General Roland Burris.

⁵¹See *infra* pp. 9-13.

⁵²Administrative Office of the California Courts Judicial Council, "Achieving Equal Justice for Women and Men in the Courts", 65 (1990) (established by Chief Justice of California Supreme Court); Colorado Supreme Court Task Force on Gender Bias in the Courts, Gender & Justice in the Colorado Courts (1990); Connecticut Task Force on Gender Justice and the Courts (1991) (established by Chief Justice of Connecticut Supreme Court); Connecticut Task Force on Gender Justice and the Courts (1991) (established by Chief Justice of Connecticut Supreme Court); Florida Supreme Court Gender Bias Study Commission, Report (1990); Supreme Court of Georgia, Gender and Justice in the Courts (1991); Illinois Task Force, Gender Bias in the Courts (1990); (established by three bar associations at the direction of the chief justice of the Illinois Supreme Court); Maryland Special Joint Committee, Gender Bias in the Courts (1989); Massachusetts Supreme Judicial Court, Gender Bias Study of the Court System in Massachusetts (1989); Michigan Supreme Court Task Force on Gender Issues in the Courts, Final Report (1989); Minnesota Supreme Court Task Force for Gender Fairness in the Courts, Final Report, reprinted in 15 Wm. Mitchell L. Rev. 4 (1989); Nevada Supreme Court Gender Bias Task Force, Justice for Women (1989); New Jersey Supreme Court Task Force, Women in the Courts (1984); New York Task Force on Women in the Courts, Report, reprinted in Fordham Urban L.J. 1 (1986); Rhode Island Supreme Court Committee on Women in the Courts (1987); Utah Task Force on Gender and Justice, Report to the Utah Judicial Council (1990); Vermont Supreme Court and Vermont Bar Association, Gender and Justice: Report of the Vermont Task Force on Gender Bias in the Legal System (1991); Washington State Task Force, Gender and Justice in the Courts (1989) (established by the chief justice of the Washington Supreme Court); Wisconsin Equal Justice Task Force, Final Report (1991) (established by the chief justice of the Wisconsin Supreme Court).

⁵³Lynn Hecht Shafran, "Overwhelming Evidence: Reports on Gender Bias in the Courts", Trial at 28 (February 1990).

tive proof on a case-by-case basis that the criminal was motivated by a bias against the victim's gender. Whether a particular crime is, in fact, gender-motivated will be a question of fact for the court or jury to decide, consistent with the definitions contained in title III.

Moreover, where a crime is shown to be motivated by gender bias, a different interest is implicated; one not adequately addressed by State tort law alone. The civil rights action provided by title III has the entirely different function of providing a special societal judgment that crimes motivated by gender bias are unacceptable because they violate the victims' civil rights. Title III singles out for enhancement bias-inspired conduct because of the unique individual and societal harm it causes.⁵⁴ For example, the supreme Court has recognized that bias crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest.⁵⁵ Quoting Blackstone, "it is but reasonable that among crimes of different natures those should be most severely punished which are the most destructive of the public safety and happiness."⁵⁶

3. THE SCOPE OF THE ACT IS LIMITED TO GENDER-MOTIVATED, NOT RANDOM, CRIMES

The cause of action under tile III is strictly limited to violent felonies "motivated by gender."⁵⁷ The scope of title III is now limited to causes of action in which: (1) there is a crime of violence; (2) which constitutes a felony against the person under State or Federal law or in rare instances felonies against property; (3) which was committed because of gender or on the basis of gender; and (4) was due, at least in part, to an animus based on the victim's gender. A special limitation section specifically provides that "random" crimes not motivated by gender are not covered by the statute and do not give rise to a cause of action. A cause of action cannot be established by saying "I am a woman; I have an injury; ergo, I have a civil rights claim."⁵⁸

To satisfy the burden of establishing a civil rights cause of action, the plaintiff must prove that the defendant's act was motivated by gender bias. This civil rights cause of action is no different than the cause of action an African-American might use. For example, an African-American man or a woman who is the victim of an assault, cannot under our present laws say, "My civil rights were violated because I am an African-American and someone that wasn't African-American did me harm." He or she must prove racial animus.

Similarly, a woman who is attacked and seeks relief under title III must demonstrate that the defendant attacked her because she is a woman and that the attacker was motivated, at least in part,

⁵⁴ *Wisconsin v. Mitchell*, 1993, U.S. LEXIS 4024 at 19-20, 61 U.S.L.W. 4575 (June 11, 1993).

⁵⁵ *Id.* at 20.

⁵⁶ *Id.* at 20, quoting, 4 W. Blackstone, Commentaries 16.

⁵⁷ This does not mean that a plaintiff must prove every element of her injury beyond a reasonable doubt. Rather, the plaintiff must show, by a preponderance of the evidence, a set of facts that, if taken as true, would meet the definition of a felony.

⁵⁸ "Violence Against Women", hearings before the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary, House of Representatives (testimony of Senator Joseph R. Biden, Jr.) (Feb. 6, 1992).

by her gender. For example, she might offer proof that a defendant entered a department store carrying a gun, picked out women in the store and shot her while screaming anti-women epithets, and leaving the many nearby men unharmed. The fact that the attacker in this example verbally expressed his bias against women is helpful, but not mandatory. The fact that the attacker segregated the men from the women and then shot only the women might be evidence enough of his gender-based motivation.

a. Title III does not cover divorce actions

Title III does not encompass issues of child custody, child support, or alimony. The title does not involve the Federal courts in divorce cases or domestic relations disputes. In fact, the May 27, 1993, Biden-Hatch substitute explicitly disavows pendent jurisdiction over divorce proceedings, alimony, equitable distribution of marital property, or child custody decree. The only remedy title III provides is for violent crimes motivated by gender discrimination.

b. Title III does not create a general Federal law for all assaults or rapes against women

Title III does not expand Federal jurisdiction to all attacks against women, nor does it supplant all State tort law. As the Supreme Court has held, Congress does not create a "Federal tort law" when it legislates a civil rights remedy for violent acts based on discriminatory motivation.⁵⁹ Discriminatory motivation is clearly required by title III of the Violence Against Women Act, and the plaintiff bears the burden of proving that motivation. For a cause of action to arise under title III, a plaintiff must prove that the crime of violence—whether an assault, a kidnapping, or a rape—was motivated by gender.

c. A civil rights remedy is appropriate for acts that are otherwise criminal

Title III's civil rights provision simply makes explicit what the Supreme Court has already held: that violence motivated by gender is not an individual crime or a personal injury, it is a form of discrimination."⁶⁰ This country has been using Federal civil rights laws to fight discriminatory violence for 120 years. Title III is a logical extension of this tradition.

d. The existence of State remedies is not a bar to a Federal civil rights remedy

State laws do not provide, and by their nature cannot provide, a national antidiscrimination standard. While traditional criminal charges and personal injury suits focus on the harm to the individual, a civil rights claim redresses an assault on a commonly shared ideal of equality. This was Congress's understanding over 120 years ago when it passed the first civil rights laws against violent discrimination; it remains true today.

⁵⁹ See *Griffin v. Breckenridge*, 403 U.S. 88, 102 (1971).

⁶⁰ *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986).

e. The civil rights remedy is limited to Federal and State felonies

Title III's civil rights provision is strictly limited to felonious crimes of violence. Specifically, the crime of violence which is proven to be motivated, at least in part, by an animus toward the victim's gender must also be an act that would constitute: (1) a Federal or State felony against the person; or (2) felony against the property that presents a serious risk of physical injury to another.

4. THE MECHANICS: PROOF REQUIREMENTS AND SPECIFIC CASES

Proof of "gender-motivation" under title III should proceed in the same ways proof of race or sex discrimination proceeds under other civil rights laws. Judges and juries will determine "motivation" from the "totality of the circumstances" surrounding the event.

Existing law prohibits racially motivated attacks. Consider a case where a black civil rights worker is beaten by an avowed white supremacist who has terrorized a predominantly African-American neighborhood. To prove at trial that the attack was "motivated by racial bias," the victim's lawyers will put into evidence the circumstances that demonstrate the bias: that the victim was of one race (African-American) and the attacker was of another (white); that the attacker does not typically assault white people and has a history of assaulting African-American people; that the attacker belonged to a white supremacist organization; and that the attacker shouted racial epithets during the assault. None of these circumstances taken individually is required to prove that the attack was racially motivated, but taken together these factors may show racial bias.

Gender-motivated crimes should be viewed in precisely the same way. Consider the case of a serial rapist who shouts misogynist slurs as he attacks his victims. A victim's lawyer would prove exactly the same type of evidence that the lawyer in the "race" case proved: that the victim was of a particular sex; that the attacker had a long history of attacking persons of that sex, but not those of the opposite sex; and that the attacker shouted antiwoman (or man) epithets during the assault. Bias, in short, can be proven by circumstantial as well as indirect evidence. Again, the jury might not be convinced by any one of these circumstances individually—but could conclude that, taken together, they show gender bias.⁶¹

a. The definition of gender-based crimes is supported by existing statutory precedent

The definition of gender-motivated crime is based on title VII, which prohibits discrimination in employment "because that used in * * * of sex." 42 U.S.C. 2000e-2. Hence, title III defines crimes motivated by gender to be crimes committed "because * * * of gender." The phraseology "motivated by," "because of," "on the basis

⁶¹Generally accepted guidelines for identifying hate crimes may also be useful in assessing whether the circumstances show gender motivation. The following characteristics are helpful in determining whether a crime is bias related: language used by the perpetrator; the severity of the attack (including mutilation); the lack of provocation; previous history of similar incidents; absence of any other apparent motive (battery without robbery, for example); common sense (burning a cross on the lawn has bias implications). Center for Women Policy Studies, "Violence Against Women as Bias Motivated Hate Crime: Defining the Issues" at 9 (1990). Expert testimony might also be helpful in explaining a defendant's motivation with respect to certain crimes.

of," or "based on" sex or gender is used interchangeably in case law discussions of title VII. This body of case law will provide substantial guidance to the trier of fact in assessing whether the requisite discrimination was present.⁶²

b. The remedy does not require a higher standard of proof than would normally apply in a civil rights case

Title III provides that the remedy is governed by a "preponderance of the evidence" standard and that a prior criminal complaint or conviction is not necessary for recovery. Civil cases do not require the "beyond a reasonable doubt" standard of proof demanded in criminal cases. Literally thousands of civil rights cases have processed under the traditional civil "preponderance" standard; title III simply follows suit.

c. Title III does not undermine existing civil rights laws or protections

This legislation is in no way intended to undermine existing civil rights protections under 42 U.S.C. 1981, 1983, and 1985(3) or under title VII, 42 U.S.C. 2000(e). It should be read in harmony with, not in derogation of, those provisions.

d. Title III is intended to apply primarily against individuals, and its "under color of law" language should be interpreted as consistent with existing law

The Title III remedy applies primarily against individuals who have committed a crime of violence motivated by gender, although like other civil rights statutes, title III is drafted to bar action taken under "color of law." As such, questions have been raised about the extent to which governmental entities may be sued under title III.

The term "under color of law" has been interpreted by numerous Supreme Court decisions construing the scope of 42 U.S.C. 1983. Title III does not permit any claim or remedy⁶³ against a governmental entity that is not allowed under section 1983. For example, like section 1983, title III does not permit suits against a municipality simply because the government employed an individual who committed a gender-motivated crime. It is well-established that municipal liability may not be predicated on *respondeat superior* or vicarious liability.⁶⁴ Similarly, like section 1983, title III does not permit damage suits against a State or a State official acting in his official capacity.⁶⁵ Finally, as indicated in prior committee reports, title III, like section 1983, does not permit a claim on the grounds that a governmental entity has violated a citizen's due process rights by failing to protect him or her.⁶⁶

In summary, the "under color of law" language in title III permits claims against governmental entities only where a govern-

⁶² See, e.g., *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); *Phillips v. Martin Marietta*, 400 U.S. 542 (1971); *McKinney v. Dole*, 765 F.2d 1129 (D.C. Cir. 1985).

⁶³ For example, punitive damages are generally not available against municipalities. *Newport v. Fact Concerts, Inc.*, 453 U.S. 247 (1981).

⁶⁴ See *Monell v. New York City Dept of Social Services*, 436 U.S. 658, 694 (1978).

⁶⁵ See *Will v. Michigan Dept of State Police*, 491 U.S. 58 (1989).

⁶⁶ See *DeShaney v. Winnebago*, 489 U.S. 189 (1989) (no due process violation for failure to protect where no special relationship).

mental entity could be sued under section 1983. Future interpretation of title III's "under color of law" language should be governed by the prevailing interpretation of the similar language in section 1983.

5. THE AUTHORITY: CONGRESS HAS THE CONSTITUTIONAL POWER TO ENACT TITLE III

Congress's power to enact title III is firmly based on the Commerce Clause and on section 5 of the 14th amendment. Scholars have testified that the constitutional basis for this remedy is sound. A Prof. Cass Sunstein concluded, "the constitutional objections to the bill are quite weak. * * * we are talking here about something that is in the core of the Equal Protection Clause as it was originally understood * * *."⁶⁷

a. The Commerce Clause

There is no doubt that the Congress has the power to create the title III remedy under the Constitution's Commerce Clause. The Commerce Clause is a broad grant of power allowing Congress to reach conduct that has even the slightest effect on interstate commerce; Congress need only have a "rational basis" for creating such a law.

The Commerce Clause gives Congress the authority to act even if the proposed law, on its face, does not directly effect "commerce." Civil rights laws and Federal criminal laws have both been created based on Congress's power under the Commerce Clause. Congress's power under the Commerce Clause also reaches conduct that may seem purely local in nature. For example, street corner sales of home-manufactured drugs can be made illegal by Congress because of the Commerce Clause power.⁶⁸

Gender-based violent crimes meet the modest threshold required by the Commerce Clause. Gender-based crimes and the fear of gender-based crimes restricts movement, reduces employment opportunities, increases health expenditures, and reduces consumer spending, all of which affect interstate commerce and the national economy. Gender-based violence bars its most likely targets—women—from full particularly in the national economy. For example, studies report that almost 50 percent of rape victims lose their jobs or are forced to quit in the aftermath of the crime.⁶⁹ Even the fear of gender-based violence affects the economy because it deters women from taking jobs in certain areas or at certain hours that pose a significant risk of such violence.⁷⁰ This was precisely the rationale on which the Supreme Court relied in upholding the 1964

⁶⁷"Women and Violence", hearings before the Committee on the Judiciary, 102d Cong., 2d sess. (Apr. 9, 1991).

⁶⁸See, e.g., *Perez v. United States*, 402 U.S. 146 (1971) (local crimes within Commerce Clause power).

⁶⁹E. Ellis, B. Atkeson, and K. Calhoun, "An Assessment of Long-Term Reaction to Rape", 90 *J. Abnormal Psychology* No. 3, 264 (1981).

⁷⁰For example, women often refuse higher paying night jobs in service/retail industries because of the fear of attack. Those fears are justified: the No. 1 reason why women die on the job is homicide and the highest concentration of those women is in service/retail industries. 39 *Morbidity & Mortality Weekly*, No. 32, at 544-45 (1990) (42 percent of deaths on the job of women are homicides; only 12 percent of the deaths of men on the job are homicides).

Civil Rights Act with respect to race (and presumably, sex as well).⁷¹

b. *The 14th amendment*

The Constitution authorizes Congress to pass appropriate legislation to enforce the 14th amendment's guarantee of equal rights. Title III is "appropriate" legislation for two reasons: first, it attacks gender-motivated crimes that threaten women's equal protection of the laws; second, it provides a necessary remedy to fill the gaps and rectify the biases of existing State laws.

Title III takes aim at gender-discrimination of the type for which the 14th amendment provides heightened scrutiny. It creates an "appropriate" remedy—a civil action in Federal court—by a victim of gender-based violent crime against his or her attacker. This kind of private action has been sanctioned by the Supreme Court as appropriate to remedy violent discrimination.⁷²

Under the 14th amendment, there is no clearer case of Congress's power to legislate than when States have failed to protect equal rights. As Professor Sunstein explained, "the criminal justice system is not providing equal protection of the laws of women in the classic sense."⁷³ For example, as discussed supra at 8–9, in many States rape survivors must overcome barriers of proof and local prejudice that other crime victims need not hurdle: they bear the burden of painful and prejudicial attacks on their credibility that other crime victims do not shoulder; they may be forced to expose their private lives and intimate conduct to win a damage award; and finally, in some cases, they may be barred from suit altogether by tort immunity doctrines or marital exemptions.

IV. VOTE OF THE COMMITTEE

On May 27, 1993, the committee on the Judiciary, by voice vote, approved an amendment in the nature of a substitute by Senators Biden and Hatch. The committee ordered the Violence Against Women Act of 1993, as amended, favorably reported.

V. SECTION-BY-SECTION ANALYSIS

TITLE I—SAFE STREETS FOR WOMEN ACT

Subtitle A—Federal penalties for sex crimes

This subtitle provides that Federal penalties for Federal sex crimes may be increased.

Section 101. Short title: This section provides the short title of title I, the "Safe Streets for Women Act of 1993."

⁷¹Women and Violence, hearings before the Committee on the Judiciary, U.S. Senate, 102d Cong., 1st sess. (Apr. 9, 1991) (testimony of Professor Sunstein).

⁷²See *United States v. Guest*, 383 U.S. 745 (1966). While the 14th amendment itself only covers actions by the States, Congress's power to enforce the amendment includes the power to create a private remedy as the most effective means to fight public discrimination. *Katzenbach v. Morgan*, 384 U.S. 641 (1966); *District of Columbia v. Carter*, 409, U.S. 418, 423, 424 n. 8 (1973) (that "[t]he Fourteenth Amendment itself 'erects no shield against merely private conduct' * * * is not to say * * * that Congress may not proscribe purely private conduct under sec. 5 of the Fourteenth Amendment.").

⁷³"Women and Violence", hearings before the Committee on the Judiciary, U.S. Senate, 102d Cong., 1st sess. (Apr. 9, 1991) (testimony of Prof. Cass Sunstein).

Section 111. Repeat offenders: This section authorizes judges to increase sentences for repeat offenders up to twice the term of punishment otherwise authorized by statute. Rape is one of the most highly recidivist crimes, and repeat offenses must be treated extremely seriously. This section has been amended since the 1991 act to require the Federal Sentencing Commission to implement this change by recommending to the Congress amendments to the Federal Sentencing Guidelines, if appropriate.

Section 112. Federal penalties: This section directs the Sentencing Commission to review and enhance sentences for sex offenders, if appropriate: if more than one offender is involved in the offense; to reduce the disparities between the sentences for sex offenders who are known to the victim and the sentences for those sex offenders who are strangers to the victim; to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States; and to recommend amendments to the guidelines to account for the problem of recidivism in sex offenses, the severity of the offense, and the devastating effect of such attacks on survivors.

This section also requires that, within 180 days after the enactment of this act, the Sentencing Commission provide to the relevant committees of Congress an analysis of Federal rape sentencing showing the comparative sentences for cases in which the victim is known to the defendant and cases in which the defendant is a stranger to the victim; the comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and of the effect of rape sentences on both victims and offenders in populations residing primarily on Federal territory, relative to other Federal offenses committed on Federal territory.

Section 113. Mandatory restitution: This section requires sex offenders to pay costs incurred by victims as a proximate result of a sex crime. Under current law, a court may, but is not required, to order "restitution" or the payment of costs incurred. Often, it is simply assumed that the defendant does not, and will never, have the resources to pay the victim's costs. This section reverses those assumptions, requiring the court to order the defendant to pay the victim's expenses. The entitlement to a restitution award or the amount of the award, but only the method and schedule of payment. In determining the method of payment, the judge may take into account other obligations of the defendant, including obligations to financial dependents.

Section 114. Federal victim's counselors: This section, authored by Senator DeConcini, authorizes the expenditure of \$1.5 million to the Executive Office of the United States' Attorneys for the purpose of providing additional rape crisis and domestic violence witness counselors in the Federal system, including Washington, DC.

Subtitle B—Law enforcement and prosecution grants to reduce violent crimes against women

Part N—Grants to combat violent crimes against women

This subtitle creates a grant program targeting violent crimes against women.

Section 121. Grants to combat violent crimes against women: This section amends title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) to provide grants to combat violent crimes against women. The purpose of the new grants is to assist States, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women, and in particular, to focus efforts on those areas with the highest rates of violent crime against women.

Subpart 1 grants target the 40 most dangerous areas in the country for women. The Justice Department is directed to create a list of those areas and publish the list in the Federal Register not less than 45 days after the bill's enactment. To collect this data, the Bureau of Justice Statistics need not conduct a new victimization survey, but may rely on existing data for reported crimes gathered by cities, States, or the FBI.

Subpart 2 grants are general moneys available to any State. Each State is entitled to a minimum of \$500,000, with the remaining sums divided among the States based on the State's population. In disbursing moneys under the subpart, the Director of the Bureau of Justice Assistance shall take into account geographic basis, the population served, and give priority to areas with the greatest showing of need.

Under either subpart, grants must be used for specified purposes, including training for police and prosecutors; expanding or creating units of police or prosecutors focusing on crimes against women; developing protocols for police and prosecutors on the handling of domestic violence and sexual assault cases; developing or expanding computer systems to track complaints; and boosting resources for victim services programs. Any qualifying fund recipient must certify that at least 25 percent of the amount granted shall be allocated to each of the following three areas individually: prosecution, law enforcement, and victim services.

To qualify for funds under this section, grantees must comply with certain statutory conditions. First, grantees must certify that programs will be coordinated with local private, nonprofit service agencies, such as rape crisis centers and battered women's shelters. Second, any grantee seeking funds under this section or any other title I program must have in place laws or policies that require the State, not the victim, to pay for forensic rape exams.

Grants to tribes: Drafted in conjunction with the Select Committee on Indian Affairs, this section provides grants to Indian tribes to reduce the rate of violent crimes against women in Indian country. Grants are to be provided on a competitive basis, ranging from \$35,000 to \$300,000. At least 25 percent of the grant funds shall be allocated to each of prosecution, law enforcement, and victim services.

General Definitions: Subpart 3 provides a set of general definitions. Subsection (1) defines "victim services" to include nongovernmental, nonprofit organizations. Grants should be available to rape crisis centers, battered women's shelters, and other victims' assistance organizations. Subsection (2) defines "prosecution" as any public agency with direct responsibility for prosecuting criminal offenders. Subsection (3) defines "law enforcement" as any public agency charged with policing functions. Subsection (4) defines sex-

ual assault to include assaults committed by strangers and by acquaintances. Subsection (5) defines domestic violence to cover a specified core of persons—former or current spouses, cohabitants and those who share a child in common—and otherwise incorporate State law definitions for the jurisdiction receiving moneys. Subsection (6) defines “underserved populations” to include populations underserved because of geographic location, underserved racial or ethnic populations, and populations underserved because of such problems as language barriers or physical disabilities.

Subtitle C—Safety for women in public transit and public parks

This subtitle targets existing funds to add lighting, camera surveillance, and security phones in public transportation and in national and public parks.

Section 131. Grants for capital improvements to prevent crime in public transportation: This section authorizes the use of existing public transit funds to prevent crime, including crimes against women. It amends the Urban Mass Transportation Act to authorize the Secretary of Transportation to use \$10 million in mass transit funds to increase lighting, camera surveillance, and emergency telephones in bus stops, subway stations, or adjacent parking lots. The Federal share for these capital improvement projects shall be 90 percent.

Section 132. Grants for capital improvements to prevent crime in national parks: This section authorizes the use of existing national park funds to target crime, including crimes against women. It amends the National Park System Improvements in Administration Act (16 U.S.C. 1a et seq.) to authorize the Secretary of the Interior to allocate \$10 million for Federal assistance to reduce violent crime in the National Park system. Funds are to be allocated to the areas most in need of assistance, with priority granted to those areas with high rates of sexual assault, as determined by the chief official responsible for law enforcement within the National Park Service.

Section 133. Grants for capital improvements to prevent crime in public parks: This section authorizes the use of existing public park funds to reduce crime, including crimes against women. It amends the Land and Water Conservation Act of 1965 to authorize the Secretary of the Interior to allocate \$15 million from the Land and Water Conservation Fund for Federal assistance to reduce violent crime in public parks. Funds are to be allocated to the neediest areas, with a priority given to urban parks and recreation areas with the highest rates of crime, particularly with the highest rates of sexual assault.

Subtitle D—Justice Department Task Force on violent crime against women

Section 141. Establishment: This section creates a task force to study the Nation’s response to violent crimes against women and make recommendations on how to reduce crimes against women.

Section 142. Duties of task force: This section specifies the duties of the task force. The topics to be studied by the task force include: the need for more uniform State laws on domestic violence and sex-

ual assault, and the need for national educational and awareness efforts.

Section 143. Membership: The task force is to be made of up to 15 members, all of whom are to be appointed by the Attorney General. The task force should include representatives of State and local law enforcement, judicial administration, prosecution, legal experts, survivors of violence, and people devoted to the protection of victims' rights.

Section 144-48. These sections require a task force report, provide for an executive director and staff, authorize appropriations, and terminate the task force after it issues its final report.

Subtitle E—New evidentiary rules

This subtitle creates three new Federal Rules of Evidence. Congress has plenary power to make such changes and has exercised that power in the past by enacting rule 412, the Federal rape shield law, on which the new rules in this section are based.

Section 151. Sexual history in all criminal cases: This section applies the principles of rape shield law to all criminal cases, not just the sexual assault cases where current rule 412 applies. It creates a new evidentiary rule, rule 412A, governing all criminal cases brought under title 18, United States Code. Subsection (a) of new rule 412(a) bars reputation and opinion evidence of past sexual behavior in all criminal cases, tracking the same language that now governs reputation and opinion evidence under rule, rule 412.

Subsection (b) provides that evidence of specific instances of a victim's past sexual behavior is admissible only if the evidence is relevant, its probative value outweighs its prejudicial effect, and it is offered in accordance with the procedures outlined in subsection (c), procedures similar to those governing the admissibility of evidence under the current rape shield rule, rule 412.

Subsection (c) provides that, in ruling on an offer of proof, the court should articulate the reasoning process that led it to conclude that the evidence was relevant and probative given the potential for evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

Section 152. Sexual history in civil cases: This section extends the principles of rule 412A to civil claims of actionable sexual misconduct. It creates a new evidentiary rule, rule 412B, that governs the use of prior sexual history in civil cases including those cases involving claims of sex harassment and discrimination brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e) and gender-bias claims brought pursuant to title III of this act. Like rule 412A, this rule bars the use of reputation or opinion evidence of prior sexual history. Also like rule 412A, this rule provides that prior sexual history shall be admitted only if relevant and only if its probative value outweighs its prejudicial effect. The procedures for offering potentially admissible evidence in this rule are identical to those in rule 412A. This rule is consistent with existing Federal court decisions holding that prior sex acts are not discoverable nor relevant in civil sex harassment cases.⁷⁴

⁷⁴See *Priest v. Rotary*, 98 F.R.D. 755 (N.D. Cal. 1983). In *Priest*, a defendant in a sexual harassment case attempted to discover detailed information regarding the victim's sexual history,

Section 153. Amendments to the rape shield law: This section makes three amendments to the existing rape shield law, rule 412. First, it codifies existing law permitting a victim to take an interlocutory appeal of an adverse ruling under the rape shield law.⁷⁵ Such a rule is necessary as appeal following the defendant's acquittal or conviction is no remedy, as the harm the rule seeks to prevent already will have occurred.⁷⁶ Second, it provides for the rare case in which a victim may want to introduce evidence of prior sexual history (or a lack thereof), clarifying that a victim may waive the rule's protections. Third, rule 412's procedures are conformed to those included in new rules 412A and 412B.

Section 154. Evidence of clothing: This section provides that evidence of clothing may not be admitted to show that a victim incited or invited a rape. At least two States, Florida and Louisiana, already have such rules. The Florida statute prohibits the admission of the victim's "manner of dress" at the time of the offense to show that she "incited the sexual battery."⁷⁷ The Louisiana statute provides that "the manner and style of the victim's attire shall not be admissible as evidence that the victim encouraged or consented to the offense."⁷⁸ Nothing in this section is intended to bar the use of clothing when it is relevant to show injury or identity.

Subtitle F—Assistance to victims of sexual assault

Section 161. Education and prevention grants to reduce sexual assaults against women: This subtitle authorizes an increase in rape prevention and education funding. Amounts of \$65 million is to be provided. Out of this, funds are to be provided to volunteer nonprofit service providers, such as rape crisis centers. At least 25 percent of the funds must be allocated for education of middle school, junior high school, and high school students on rape prevention.

Section 162. Rape exam payments: Grantees seeking any title I funds must provide payment for forensic rape exams. To meet this requirement, it is preferable that States or localities reimburse hospitals, not victims, for the expense of the exam. A State or locality may reimburse the victim after the fact, however, if the reimbursement scheme requires prompt payment (within 90 days), provides reimbursement information to the victim at the time of the exam, permits applications for reimbursement for up to 1 year after the date of the exam, and includes no minimum loss or deductible.

including the name of each person with whom she had had sexual relations in the past 10 years. *Id.* at 756. The court noted that even in the criminal context, the use of a complainant's past sexual behavior is more often harassing and intimidating than genuinely probative, and that the potential for prejudice outweighs whatever probative value such evidence may have. *Id.* at 762. Based on this, the court held that in the civil context, absent extraordinary circumstances, "inquiry into such areas should not be permitted either in discovery or at trial." *Id.* See also *Mitchell v. Hutchins*, 116 F.R.D. 481 (D. Utah 1987). The *Mitchell* court concurred with *Priest*, holding that a plaintiff's sexual history is inadmissible character evidence, which, if admitted, serves only to embarrass and annoy the plaintiff. *Id.* at 485.

⁷⁵ See *Doe v. United States*, 666 F.2d 43 (4th Cir. 1981). In *Doe*, the rape victim appealed the district court's pretrial ruling that the defendant could introduce evidence and permit cross-examination concerning the victim's past sexual behavior. *Id.* at 45. The defendant asserted that the appellate court lacked jurisdiction to entertain the victim's appeal from the district court's order in the rule 412 proceeding. *Id.* The fourth circuit held that the right to make an interlocutory appeal is implicit as a necessary corollary of rule 412's explicit protection of the privacy interests of the rape victim. *Id.* at 46.

⁷⁶*Id.* at 43, 46.

⁷⁷ Fla. Stat. Ann. § 794.021(3) (West 1992).

⁷⁸ La. Sess. Law Serv. (West) Act 725, art. 412.1.

Section 163. Education and prevention grants to reduce sexual abuse of female runaway, homeless, and street youth: This section, authored by Senator Kohl, amends the Runaway and Homeless Youth Act by targeting a special \$10 million grant program for the prevention of sexual abuse and exploitation of young runaways, homeless, and street youth who are sexual assault victims or at risk of being subjected to sexual abuse.

Section 164. Victim's right of allocution in sentencing: This section provides victims with the right to make a statement at the sentencing of criminal defendants. Authored by Senator Grassley, this section amends existing rule 32 of the Federal Rules of Criminal Procedure. It requires judges, at the time of sentencing, to address the victim and determine if the victim wishes to make a statement in court. If the victim so wishes, the court shall allow such an impact statement in any case involving a crime of violence or sexual abuse.

TITLE II—THE SAFE HOMES FOR WOMEN ACT

Subtitle A—Family Violence Prevention and Services act amendments

Section 201. Short title: This section provides the short title of title II, the "Safe Homes for Women Act of 1993."

Section 211. Grant for a national domestic violence hotline: Authored by Senator Kennedy, this section amends the Family Violence Prevention and Services Act, 42 U.S.C. 10401 et seq., to authorize funding for a hotline offering assistance to victims of domestic violence. The funds may be used to open and operate the hotline; employ, train, and supervise telephone counselors; assemble and maintain a database of information and resources to which callers might be referred; and to publicize the hotline to potential users.

Subtitle B—Interstate enforcement

Section 221. Interstate enforcement: This section creates a new chapter in the Criminal Code to punish spouse abusers who cross State lines to continue abuse. Subsection (a) covers cases where the defendant has traveled across State lines with the intent of injuring a spouse or intimate partner, and in fact, injury does occur. Subsection (b) covers cases where the defendant has forced a spouse or intimate partner to cross State lines, and injury or abuse occurs during the course of or as a result of this travel. The "purpose" prong of this part of the statute may be demonstrated by objective evidence—a history of abuse, the result of the travel (that is, further battering), and the timing of the travel. A showing of specific intent is not required. This section creates new penalties for persons who cross State lines and who violate a valid stay-away order protecting a spouse from abuse. Section 221 also provides restitution for victims of the new domestic violence crimes created under this chapter.

Finally, section 221 makes protective orders issued by one State good in the other 49 States. Under current law, a spouse who obtains a "stay-away" order in one State may lose the protection of that order if she crosses State lines. This section is modeled after

28 U.S.C. 1738(A), Full Faith and Credit Given to Child Custody Determinations. Under section 1738(A), the authorities of every State are required to enforce any child custody provisions made by another State. Similarly, this section provides that any valid protection order issued by a State should be given "full faith and credit" by a sister State.

The committee believes these actions to constitute an appropriate response to the problem of domestic violence which, because of their interstate nature, transcend the abilities of State law enforcement agencies. The committee's legislation does not constitute an "overfederalization" of crimes. Under title 18 of the United States Code, there are provisions that make it a crime to cross a State line with falsely made dentures or with a cow.⁷⁹ Thus, it is not a radical expansion of the law to require one State to enforce the "stay-away" order of another.

Subtitle C—Arrest in spousal abuse cases

This subtitle encourages States to treat domestic violence as a serious crime. It creates a new \$25 million grant program for those States with policies encouraging or requiring arrest of spouse abusers. Eligible grantees include those States, municipalities, or local government entities demonstrating that their laws have significantly increased the number of arrests of spouse abusers and certifying that their laws or policies either encourage or mandate arrest of spouse abusers. Grants are targeted for increased centralization, training and education, and implementation of proarrest policies.

Subtitle D—Domestic Violence, Family Support and Shelter Grants

The purpose of this subtitle is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that affect women as well as to assist and protect the victims of those crimes. The committee expects that the fund provided under this section will be divided equitably between urban, suburban, and rural areas.

Section 241. Domestic violence and family support grant program: In addition to increasing the authorization of existing domestic violence programs under the Family Violence Prevention and Services Act, this section creates a new \$100 million grant program which authorizes the Secretary of Health and Human Services to make grants to support programs relating to domestic violence and other crimes affecting women. Among other programs, grants will be available for: training and policy development for officers and prosecutors; law enforcement training relating to aggressive arrest and prosecution of those engaged in domestic violence; programs for enforcement of protective orders; programs addressing stalking; victim services for victims of domestic violence; educational and informational programs relating to domestic violence; training for judges and court personnel; and enforcement of child support obligations.

⁷⁹ Violence Against Women hearing before the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary, House of Representatives, at 8 (testimony of Senator Biden) (Feb. 6, 1992).

Subtitle E—Family Violence Prevention and Services Act amendments

This subtitle improves existing legislation on family violence, the Family Violence Prevention and Services Act.

Section 251. Grantee reporting: This section is a technical amendment to section 303(a)(2)(C) of the Family Violence Prevention and Services Act, 42 U.S.C. 10402(a)(2)(C). It provides that when a grant application is submitted to the Secretary, as per 42 U.S.C. 110402(a)(2)(C), the procedures set forth in the plan to ensure equitable distribution of grants and grant funds must consider the needs of underserved populations including those populations underserved because of ethnic, racial, cultural, or geographic isolation.

This section further amends 42 U.S.C. 10402(a) by adding a new paragraph requiring States that receive grants to file annual reports describing their activities and assessing the effectiveness of those activities.

Subtitle F—Youth Education and Domestic Violence

Section 261. Educating youth about domestic violence: This subtitle provides a new program for educating our youth about domestic violence. It directs the Secretary of Education to select, implement, and evaluate model programs on this subject for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. No later than 24 months after the date of the enactment of the act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

Subtitle G—Confidentiality for abused persons

Section 271. Confidentiality of abused person's address: This section enhances protection for abused women by requiring the Post Office to assist in maintaining the confidentiality of an abused person's address. Under existing law and practice, an abused person who registers a change of address with the post office risks disclosure of that address to her abuser. This section rectifies this problem by authorizing the Postmaster General to promulgate regulations to secure confidentiality or otherwise prohibit the disclosure of an abused person's address consistent with the guidelines set forth in the statute. Nothing in this section should be construed as prohibiting the compilation of addresses or the disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes.

Subtitle H—Technical amendments

Section 282. State domestic violence coalitions: This section amends section 311(a) of the Family Violence Prevention and Services Act, 42 U.S.C. 10410(a), to provide grants for local law enforcement agencies to work with local domestic violence programs and providers of services to victims of domestic violence, and to encourage appropriate responses to domestic violence.

Subtitle I—Data and research

Section 291. Research agenda: This section requires that the Director of the National Institute of Justice request that the National Academy of Sciences, or a nonprofit private entity, develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. This section further requires the Director to submit a report of the study's findings to the appropriate committees of Congress and to the Attorney General's Task Force on Violence Against Women.

Section 292. State databases: This section requires the National Institute of Justice, in conjunction with the Bureau of Justice Statistics, to study and report to the States and to Congress on how States collect centralized databases on the incidence of domestic violence. No later than 9 months after the enactment of this act, the Director is required to submit a report on the findings to the appropriate committees of Congress.

Section 293. Number and cost of injuries: This section requires the Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, to conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, and the health care costs of such injuries. The study should also recommend health care strategies for reducing the incidence and cost of such injuries.

TITLE III—CIVIL RIGHTS

Section 301. Short title: This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act."

Section 302. Civil Rights: This section provides a civil rights remedy for gender-motivated crimes. Modeled on existing civil rights laws, this section provides a Federal court remedy to victims of gender-based violent crime. The conduct covered under this section includes crimes of violence, including felony rape, sexual assault, kidnapping, and any other felonies against the person (or property where the conduct presents a serious risk of physical injury to another) committed because of or on the basis of gender, and motivated, at least in part, by an animus toward the victim's gender. Compensatory and punitive damages may be recovered where appropriate.

Like the statutes on which it is modelled—title VII, and 42 U.S.C. 1981, 1983, and 1985(3)—this section reaches gender-based discrimination by private persons and by persons acting under color of State law. Procedural issues should be resolved in accord with current law governing sections 1981, 1983, and 1985(3).

For clarity, section 302(d)(1) has been revised from previous versions of the act. Although discriminatory motivation has always been required by the act, this section has been amended to require that crimes of violence be "due, at least in part, to an animus based on the victim's gender." This new language elucidates the committee's intent that a victim alleging a violation under this section must have been targeted on the basis of his or her gender. The defendant must have had a specific intent or purpose, based on the victim's gender, to injure the victim.

Section 304: Sense of the Senate concerning protection of the privacy of rape victims. As a result of a committee amendment, this section includes a sense of the Senate resolution that the privacy of rape victims' names be respected to prevent their further victimization. This section recommends that the news media, law enforcement officers, and other persons respect a rape victim's privacy by not disclosing her identity to the general public or facilitating such disclosure without the victim's consent.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Section 401. Authorization of appropriations: This section authorizes that funds be appropriated for the purpose of carrying out section 1541(i) of 20 U.S.C. 1145h(i), the Higher Education Amendments of 1992.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS

Section 501. Short title: This section provides the short title of this title, the "Equal Justice for Women in the Courts Act of 1993."

Subtitle A—Education and training for judges and court personnel in State courts

Section 511. Grants authorized: This section authorizes the Attorney General to provide grants through the State Justice Institute for the purpose of developing, testing, and presenting model programs to be used in the States in training judges and court personnel in the laws of rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

Section 512. Training provided by grants: This section outlines training subjects such as the nature and incidence of rape; the physical, psychological and economic impact of rape and domestic violence; the application of rape shield laws; the use of testimony on rape trauma syndrome; and the legitimate reasons why women victims of crimes do not report those crimes.

Section 513. Cooperation in developing programs in making grants under this title: This section provides that the Attorney General shall ensure that model programs are carried out in conjunction with a variety of persons with knowledge and expertise in the criminal justice process, including law enforcement personnel, victim advocates, prosecutors, defense attorneys, and recognized legal experts.

Section 514. Authorization of appropriations: This section authorizes \$600,000 to carry out the purposes of subtitle A, the training of State court judges.

Subtitle B—Education and training for judges and court personnel in Federal courts

While subtitle A addresses programs to serve the needs of State court judges, this subtitle focuses on Federal court judges. It has been substantially redrafted since the bill's original introduction in 1990.

Section 521. Authorizations of circuit studies, education and training grants: This section provides that the Federal circuit judicial councils should conduct a study of the nature and extent of gender bias in their respective circuits. The Judicial Center shall

designate an entity within the judicial branch to maintain a clearinghouse for these reports.

This section also directs the Federal Judicial Center to include information on gender bias in its educational programs, including training Federal judges and court personnel.

Section 522. Authorization of appropriations: This section authorizes \$500,000 to carry out the purposes of subtitle B, including \$100,000 to the Federal Judicial Center.

TITLE VI—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

Section 601. Pretrial detention in sex offense cases: This section is a technical amendment to the definitions section of Release and Detention Pending Judicial Proceedings, 18 U.S.C. 3156(a)(4). This section adds both sexual abuse and sexual exploitation and other abuse of children as "crimes of violence" as defined in section 3156.

Section 602. Increased penalties for sex offenses against victims below the age of 16: This section adds the intentional touching of the genitalia of people under the age of 16 years to the definition of a "sexual act" under title 18, section 2245(2).

Section 603. Payment of cost of HIV testing for victims in sex offenses: This section amends section 503(c)(7) of 42 U.S.C. 10607(c)(7), the Victims' Rights and Restitution Act of 1990, requiring the Attorney General to authorize the Director of the Office of Victims of Crime to pay for up to two human immunodeficiency virus tests per victim within 1 year of a sexual assault.

Section 604. Extension and strengthening of restitution: This section amends Orders of Restitution, title 18, section 3663. It adds sexual abuse as well as sexual exploitation and other abuse of children to cases in which judges may order restitution. In addition, this section permits judges to reimburse the victim for lost income, necessary child care, transportation, and other expenses related to her participation in the investigation or prosecution of the offense.

Section 605. Enforcement of restitution orders through suspension of Federal benefits: This section, amending Orders of Restitution, title 18, section 3663, provides that, after a hearing, a defendant who is delinquent in making restitution in accordance with any schedule of payments may have his Federal benefits, such as any grant, contract, loan, or professional or commercial license suspended.

Section 606. Inadmissibility of evidence to show provocation or invitation by victim in sex offense case: This section creates a new Federal Rule of Evidence, rule 416. This new rule provides that evidence is not admissible to show that the victim in title 18, chapter 109A, sexual abuse cases invited or provoked the attack.

Section 607. National baseline study on campus sexual assault: This section requires the Attorney General to provide a study examining the scope of the problem of sexual assaults on college campuses and the effectiveness of institutional and legal policies in addressing such crimes and in protecting the victims. This report is to include: the number of reported allegations of campus sexual assaults; and estimate of the number of unreported allegations of sexual assaults; to whom the allegations are reported; the number of assaults that result in criminal prosecutions; the adequacy of policies and practices of educational institutions in addressing such as-

saults; the nature and availability of victim services to victims of sexual assaults on campus; and the grounds on which educational institutions have been subject to lawsuits based on campus sexual assaults.

Section 608. Report on battered women's syndrome: This section requires the Attorney General to prepare and submit to Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. This report is to include judicial decisions admitting or excluding such evidence as well as the views of judges, prosecutors, and defense attorneys regarding the effect on criminal trials of admitting such evidence.

Section 609. Report on the confidentiality of addresses for victims of domestic violence: This section requires the Attorney General to conduct a study to discover how abusive spouses obtain information regarding the address or location of estranged or former spouses, notwithstanding the victim's attempts to keep such information secret. The report will also include suggestions regarding ways in which the confidentiality of the whereabouts of abuse victims could be protected.

Section 610. Report on recordkeeping relating to domestic violence: This section requires the Attorney General to prepare and submit to Congress, within 1 year, a report on the manner in which domestic violence statistics are kept and on how such recordkeeping might be improved.

Section 611. Report on fair treatment in legal proceedings: This section requires the Judicial Conference of the United States to review the advisability of creating Federal rules of professional conduct for lawyers in Federal cases involving sexual misconduct. Within 180 days, the Judicial Conference is to submit its report to Congress, specifically considering rules to protect litigants from harassing conduct; prohibit counsel from relying on demeaning stereotypes; protect litigants from increased litigation expenses; and prohibit counsel from offering false evidence.

Section 612. Report of Federal rule of evidence 404: This section requires the Judicial Conference to consider amending Federal Rule of Evidence 404 to admit evidence of the defendant's prior sex crimes in cases involving sexual misconduct. The Judicial Conference is to submit its report to Congress within 180 days of the enactment of the act.

Section 613. Supplementary grants for States adopting effective laws relating to sexual violence: This section authorizes the Attorney General to award any State with sexual violence laws or policies that are reasonably comparable to the provisions of Federal law up to \$1 million, in addition to funds otherwise authorized by this bill. Specifically, State laws must be similar to Federal ones in areas including: training and policy development for law enforcement officers, prosecutors and judges; funding victim services; educational and informational programs relating to sexual violence; authorizing pretrial detention of defendants in sexual assault cases where the safety of others cannot otherwise be assured; paying the costs of medical examinations for victims of sexual assault; and providing rape shield laws that ensure that victims of sexual assault are protected from inquiry into unrelated sexual behavior.

VI. ESTIMATED COST OF LEGISLATION

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 404 of the Congressional Budget Act of 1974, the committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 30, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congress Budget Office has prepared the enclosed cost estimate for S. 11, the Violence Against Women Act of 1993.

Enactment of S. 11 would affect direct spending and receipts, and therefore the bill would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 11.
2. Bill title: Violence Against Women Act of 1993.
3. Bill status: As ordered reported by the Senate Committee on the Judiciary, May 27, 1993.
4. Bill purpose: S. 11 would make a number of changes and additions to Federal laws related to violence and crimes against women. Title I of the bill, the Safe Streets for Women Act of 1993, would:
 - Increase federal penalties and require restitution for certain sex crimes;
 - Authorize appropriations of \$1.5 million for fiscal year 1994 to the United States Attorneys for the purpose of appointing victim/witness counselors for the prosecution of sex crimes and domestic violence crimes;
 - Authorize \$100 million for each of fiscal years 1994 through 1996 for grants to areas of "high intensity crime" against women;
 - Authorize \$190 million for each of fiscal years 1994 through 1996 for general grants to states to combat violent crimes against women;
 - Authorize \$10 million for each of fiscal years 1994 through 1996 for general grants to Indian tribes to reduce the rate of violent crimes against women in Indian country;
 - Earmark up to \$10 million in urban mass transportation discretionary capital grants to increase the safety and security of public transportation systems;

Authorize up to \$10 million in funds for the National Park System to reduce the incidence of violent crime in the national parks;

Earmark up to \$15 million in Department of the Interior state grants to increase safety in state parks and recreation areas;

Establish a Justice Department Task Force on Violence Against Women and authorize \$500,000 for fiscal year 1994 for said commission;

Add to the Federal Rules of Evidence new rules concerning the admissibility of evidence regarding the past sexual behavior of alleged victims and clothing worn by alleged victims;

Authorize \$65 million for each of fiscal years 1994 through 1996 for grants to states for rape prevention and education programs; and

Authorize \$10 million for each of fiscal years 1994 through 1996 for grants to private, nonprofit agencies to reduce sexual abuse of female runaway, homeless and street youth.

Title II, the Safe Homes for Women Act of 1993, would:

Authorize appropriations of \$500,000 for each of fiscal years 1994 through 1996 to the Secretary of Health and Human Services to establish a national domestic violence hotline;

Establish federal penalties and require restitution for violence against spouses that involves travel across state lines;

Authorize up to \$25 million annually for grants to state and local governments to encourage states and localities to treat spousal violence as a serious violation of criminal law;

Authorize \$100 million for each of fiscal years 1994 through 1996 and such sums as are necessary for each fiscal year thereafter for grants to state and local governments for projects relating to domestic violence and other criminal acts;

Authorize \$85 million for fiscal year 1994, \$100 million for fiscal year 1995, and \$125 million for fiscal year 1996 to carry out the provisions of the Family Violence Prevention and Services Act;

Authorize \$400,000 for fiscal year 1994 to the Secretary of Education for a program on youth education and domestic violence;

Authorize \$100,000 for fiscal year 1994 to the Secretary of Health and Human Services to conduct a study regarding the number and cost of injuries resulting from domestic violence; and

Authorize such sums as are necessary to the National Institute of Justice to prepare a report on how states may collect centralized databases on the incidence of domestic violence.

Title III, the Civil Rights Remedies for Gender-Motivated Violence Act, would create a civil cause of action for the recovery of compensatory and punitive damages for crimes of violence overwhelmingly motivated by the victim's gender.

Title IV would authorize appropriations of \$20 million or fiscal year 1994 and such sums as are necessary for fiscal years 1995 through 1998 for grants to or contracts with institutions of higher education for rape education and prevention programs.

Title V, the Equal Justice for Women in the Courts Act of 1993, would:

Authorize \$600,000 for fiscal year 1994 for grants to develop, test, present, and disseminate model programs to be used by states in training judges and court personnel in the state laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender; and

Authorize, for fiscal year 1994, \$400,000 to the Federal Judicial Center, \$100,000 to the salaries and expenses account of the Courts of Appeals, District Courts and other Judicial Services, and such sums as are necessary to the Administrative Office of the United States Courts to study gender bias in the federal courts and to develop, test, present, and disseminate model programs to be used in training federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

Title VI would:

Authorize appropriations of \$200,000 for fiscal year 1994 to the Attorney General for a baseline study on campus sexual assault; and

Authorize such sums as are necessary to the Attorney General for supplementary grants to states that adopt effective sexual violence laws.

5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1994	1995	1996	1997	1998
SPENDING REQUIRING APPROPRIATION ACTION					
Authorizations of Appropriations:					
Amounts Specified in the Bill	619	601	626	25	25
Amounts Estimated	10	41	56	160	162
Total Authorizations in S. 11	629	642	682	185	187
Less: Authorizations in Current Law	105	121	21	22
Net Additional Authorizations	524	521	661	163	187
Estimated Additional Outlays	155	380	561	515	298
REVENUES					
Estimated Receipts from Fines	(1)	(1)	(1)	(1)	(1)
DIRECT SPENDING					
Crime Victims Fund:					
Estimated Budget Authority	0	(1)	(1)	(1)	(1)
Estimated Outlays	0	(1)	(1)	(1)	(1)

¹ CBO cannot estimate these amounts.

The costs of this bill would fall within the budget functions 300, 500, 550, and 750.

Basis of estimate: The estimate assumes that the Congress will appropriate the full amounts authorized for each fiscal year. For programs with specific amounts authorized for a given year and such sums authorizations for subsequent years, we have projected the indefinite authorizations by adjusting the specific authorization for inflation. For programs with such sums authorizations, we have estimated these amounts based on the projected cost of the pro-

posed program. The outlay estimates are based on the historical spending rates for these or similar activities.

The above table does not include any additional spending associated with the earmarking of amounts for urban mass transportation grants and Department of the Interior state grants. S. 11 would earmark already authorized funds, but would not increase the amounts available.

The 1994 and 1995 authorizations for the Family Violence Prevention and Services Act already have been enacted (in Public Law 102-295), and S. 11 would not change these amounts. Therefore, enactment of the bill's authorizations for this act would result in no additional spending until fiscal year 1996. Similarly, the 1994 through 1997 authorizations for the campus rape education and prevention programs already have been enacted (in Public Law 102-325), and S. 11 would not change these amounts. Therefore, enactment of the bill's authorizations for campus rape education and prevention would result in no additional spending until fiscal year 1998.

The legislation contains a number of new and enhanced penalties that would result in additional costs to the federal prison system as more prisoners serve more time behind bars. These costs would vary to the extent that United States Attorneys elect to prosecute the new federal crimes. CBO estimates that any such costs would be less than \$10 million annually, beginning two-to-three years after enactment.

In addition, the new penalties, as well as the new evidentiary rules and civil cause of action in Title III, would result in additional workload to the federal judiciary. The Administrative Office of the United States Courts estimates that the additional recurring budget costs would reach \$42 million annually, mostly because of new civil rights cases made possible under Title III. It is extremely difficult to predict these costs, which would depend on the enforcement efforts of the U.S. Attorneys and the number of civil rights cases initiated by victims. We estimate that the resultant costs to the federal judiciary could range from \$10 million to around \$50 million annually, probably falling in the lower end of that range, beginning two-to-three years after enactment. The above table includes \$10 million in 1995 and \$25 million in each subsequent year for costs to the prison system and the judiciary.

The imposition of new criminal fines could cause governmental receipts to increase through increased penalty collections, but CBO cannot estimate the amount of such an increase. Such fines are deposited in the Crime Victims Fund and are spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

6. Pay-as-you-go considerations. The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Enactment of S. 11 could affect both receipts and direct spending as the result of increased penalty collections. CBO cannot estimate the amount of any such increases, but the changes in spending and receipts would net out over time.

7. Estimated cost to State and local governments: Most of the funding authorized by S. 11 is in the form of grants to state and

local governments. In some cases, state and local governments that receive funding would be required to provide a portion, generally 50 percent, of the costs of the projects for which the grants are intended. We estimate that the resultant costs to state and local governments would be roughly \$70 million annually.

A provision of S. 11 could affect state eligibility for grants authorized by Title I of the bill and could result in increased costs to the states. This provision would require that states incur the full cost of forensic medical exams for victims of sexual assault. Currently, most states cover at least part of the cost of forensic medical exams. We do not expect the increased costs—to states that do not currently cover the full cost of forensic medical exams—to be significant.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by Mark Grabowicz (226-2860) and John Stell (226-2720).

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

VII. REGULATORY IMPACT STATEMENT

Pursuant to paragraph 11(B), rule XXVI of the Standing Rules of the Senate, the committee after due consideration, concludes that the act will not have any direct regulatory impact.

VIII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 11, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

PART I—CRIMES

1. General Provisions.

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110A. *Violence against spouses* 2261.

* * * * *

TITLE 16—CONSERVATION

CHAPTER 1.—NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

* * * * *

§ 1a-1. National park system: administration; declaration of findings and purpose

* * * * *

“§ 13. National park system crime prevention assistance

(a) *From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed \$10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.*

(b) *The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—*

(1) compile a list of areas within the National Park System with the highest rates of violent crime;

(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

(c) *No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.*

(d) *Funds provided under this section may be used for the following purposes:*

(1) To increase lighting within or adjacent to public parks and recreation areas.

(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

(4) Any other project intended to increase the security and safety of public parks and recreation areas.

* * * * *

§ 460l-8. Financial assistance to States

(a) **AUTHORITY OF SECRETARY OF INTERIOR; PAYMENTS TO CARRY OUT PURPOSES OF LAND AND WATER CONSERVATION PROVISIONS.**—The Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of sections 460l-4 to 460l-11 of this title, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

* * * * *

(g) **COORDINATION WITH FEDERAL AGENCIES.**—In order to assure consistency in policies and actions under sections 460l-4 to 460l-11 of this title, with other related Federal programs and activities (including those conducted pursuant to Title VII of the Housing Act of 1961 [42 U.S.C.A. § 1500 et seq.] and section 701 of the Housing Act of 1954 [40 U.S.C.A. § 461]) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the

President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations.

(h) **CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.**—*In addition, to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed \$15,000,000 in total, for the following types of projects or combinations thereof:*

(1) *For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—*

(A) *increase lighting within or adjacent to public parks and recreation areas;*

(B) *provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;*

(C) *increase security personnel within or adjacent to public parks and recreation areas; and*

(D) *any other project intended to increase the security and safety of public parks and recreation areas.*

(2) *In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rate of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.*

(3) *Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.*

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

* * * * *

CHAPTER 109A—SEXUAL ABUSE

Sec.

2241. Aggravated sexual abuse.

* * * * *

2247. Repeat offenders.

2248. Mandatory restitution.

* * * * *

§ 2245. Definitions for chapter

As used in this chapter—

(1) the term “prison” means a correctional, detention, or penal facility;

(2) the term “sexual act” means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; [or]

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person[; and];
or

(D) *the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;*

* * * * *

§ 2247. Repeat offenders

Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.

§ 2248. Mandatory restitution

(a) **IN GENERAL.**—*Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.*

(b) **SCOPE AND NATURE OF ORDER.**—(1) *The order of restitution under this section shall direct that—*

(A) *the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and*

(B) *the United States Attorney enforce the restitution order by all available and reasonable means.*

(2) *For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for—*

(A) *medical services relating to physical, psychiatric, or psychological care;*

(B) *physical and occupational therapy or rehabilitation;*

(C) *necessary transportation, temporary housing, and child care expenses;*

(D) *lost income;*

(E) *attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and*

(F) *any other losses suffered by the victim as a proximate result of the offense.*

(3) *Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—*

(A) *the economic circumstances of the defendant; or*

(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

(B) For purposes of this paragraph, the term "economic circumstances" includes—

(i) the financial resources and other assets of the defendant;

(ii) projected earnings, earning capacity, and other income of the defendant; and

(iii) any financial obligations of the defendant, including obligations to dependents.

(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(c) **PROOF OF CLAIM.**—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony

heard, pursuant to this section, shall be in camera in the judge's chambers.

(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(d) **DEFINITIONS.**—For purposes of this section, the term "victim" includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: Provided, That in no event shall the defendant be named as such representative or guardian.

CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

Sec.
2251. Sexual exploitation of children.

* * * * *

2259. Mandatory restitution.

* * * * *

§ 2259. Mandatory restitution

(a) **IN GENERAL.**—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) **SCOPE AND NATURE OF ORDER.**—(1) The order of restitution under this section shall direct that—

(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

(B) the United States Attorney enforce the restitution order by all available and reasonable means.

(2) For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

(F) any other losses suffered by the victim as a proximate result of the offense.

(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

(A) the economic circumstances of the defendant; or

(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

(B) For purposes of this paragraph, the term “economic circumstances” includes—

(i) the financial resources and other assets of the defendant;

(ii) projected earnings, earning capacity, and other income of the defendant; and

(iii) any financial obligations of the defendant, including obligations to dependents.

(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant’s restitutionary obligation takes priority over any criminal fine ordered.

(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim’s other losses before any restitution is paid to any other provider of compensation.

(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(c) **PROOF OF CLAIM.**—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney’s delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney’s delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney’s delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court’s restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney’s delegee) to submit further affidavits or other supporting documents, demonstrating the victim’s losses.

(3) If the court concludes, after reviewing the supporting documentation and considering the defendant’s objections, that there is a substantial reason for doubting the authenticity or veracity of the

records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegatee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(d) **DEFINITIONS.**—For purposes of this section, the term "victim" includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: Provided, That in no event shall the defendant be named as such representative or guardian.

CHAPTER 110A—VIOLENCE AGAINST SPOUSES

Sec.

- 2261. Traveling to commit spousal abuse.
- 2262. Interstate violation of protection orders.
- 2263. Interim protections.
- 2264. Restitution.
- 2265. Full faith and credit given to protection orders.
- 2266. Definitions.

§ 2261. Traveling to commit spousal abuse

(a) **IN GENERAL.**—Any person who travels across a State line with the intent to injure, harass, intimidate his or her spouse or intimate partners and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

(b) **CAUSING THE CROSSING OF A STATE LINE.**—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress or fraud and, in the course of or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

(c) **PENALTIES.**—A person who violates this section shall be punished as follows:

(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

(5) In a case not described in paragraph (1), (2), (3), or (4), by fine under this title or imprisonment for not more than 5 years, or both.

(d) **CRIMINAL INTENT.**—The criminal intent of the offender required to establish an offense under subsection (b) does not require a showing of the specific intent to violate the law of a State.

(e) **NO PRIOR STATE ACTION NECESSARY.**—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

§ 2262. Interstate violation of protection orders

(a) **IN GENERAL.**—Any person against whom a valid protection order has been entered who travels across State lines—

(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c).

(a) **IN GENERAL.**—Any person against whom a valid protection order has been entered who—

(1) travels across a State line with the intent to injure, harass, intimidate, or contact a spouse or intimate partner; and

(2) commits an act that injures, harasses, or intimidates a spouse or intimate partner or otherwise violates a valid protection order issued by a State,

shall be punished as provided in subsection (c).

(b) **CAUSING THE CROSSING OF A STATE LINE.**—Any person who causes a spouse or intimate partner to cross a State line by force, coercion, duress, or fraud, and, in the course of or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

(c) **PENALTIES.**—A person who violates this section shall be punished as follows:

(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both.

(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States), by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

(6) In a case not described in paragraph (1), (2), (3), (4), or (5), by fine under this title or imprisonment for not more than 5 years, or both.

(d) **CRIMINAL INTENT.**—The criminal intent required to establish the offense provided in subsection (a) does not require a showing of the specific intent to violate a protection order or the law of any State.

(e) **NO PRIOR STATE ACTION NECESSARY.**—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

§ 2263. Pretrial release of defendant

In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this section shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

§ 2264. Restitution

(a) **IN GENERAL.**—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

(b) **SCOPE AND NATURE OF ORDER.**—(1) An order of restitution under this section shall direct that—

(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

(B) the United States Attorney enforce the restitution order by all available and reasonable means.

(2) For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) lost income;

(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

(E) any other losses suffered by the victim as a proximate result of the offense.

(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

(A) the economic circumstances of the defendant; or

(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

(i) the financial resources and other assets of the defendant;

(ii) projected earnings, earning capacity, and other income of the defendant; and

(iii) any financial obligations of the offender, including obligations to dependents.

(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(c) **PROOF OF CLAIM.**—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony

heard, pursuant to this subsection, shall be in camera in the judge's chambers.

(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(d) **RESTITUTION AND CRIMINAL PENALTIES.**—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

(e) **DEFINITIONS.**—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

§ 2265. Full faith and credit given to protection orders

(a) **FULL FAITH AND CREDIT.**—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

(b) **PROTECTION ORDER.**—(1) A protection order issued by a State court is consistent with this subsection if—

(A) the court has jurisdiction over the parties and matter under the law of the State; and

(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

(2) In the case of an order under paragraph (1) that is issued *ex parte*, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(c) **CROSS- OR COUNTER-PETITION.**—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

§2266. Definitions

As used in this chapter—

(1) the term “spouse or intimate partner” includes—

(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser’s acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

(2) the term “protection order” includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

(3) the term “act that injures” includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

(4) the term “State” includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

(5) the term “travel across a State line” includes any travel except travel across a State line by an Indian tribal member when that member remained at all times on tribal lands.

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CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS

* * * * *

§ 3156. Definitions

(a) As used in sections 3141–3150 of this chapter—

(1) the term “judicial officer” means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court of the District of Columbia;

(2) the term “offense” means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable in any court established by Act of Congress;

(3) the term “felony” means an offense punishable by a maximum term of imprisonment of more than one year; and

(4) the term "crime of violence" means—

(A) an offense that has an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; [or]

(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense[.]; or

(C) any felony under chapter 109A or chapter 110.

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CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

* * * * *

§ 3663. Order of restitution

(a)(1) * * *

* * * * *

(b) The order may require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

* * * * *

(i) * * *

* * * * *

(2) in the case of an offense resulting in bodily injury to a victim *including an offense under chapter 109A or chapter 110*—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; [and]

(4) *in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and*

[4] (5) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in

lieu of money, or make restitution to a person or organization designated by the victim or the estate.

(c) * * *

* * * * *

(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

(2) In this subsection—

(A) "Federal benefits"

(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

(B) "veterans benefit" means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

[(g)] *(h) If such defendant is placed on probation or sentenced to a term of supervised release under this title, any restitution ordered under this section shall be a condition of such probation or supervised release. The court may revoke probation or a term of supervised release, or modify the term or conditions of probation or a term of supervised release, or hold a defendant in contempt pursuant to section 3583(e) if the defendant fails to comply with such order. In determining whether to revoke probation or a term of supervised release, modify the term or conditions of probation or supervised release, or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.*

[(h)] *(i) An order of restitution may be enforced—*

(1) by the United States—

(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

(B) in the same manner as a judgment in a civil action; and

(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

* * * * *

FEDERAL RULES OF CRIMINAL PROCEDURE

* * * * *

VII. JUDGMENT

Rule 32. Sentence and Judgment**(a) SENTENCE.**

(1) **IMPOSITION OF SENTENCE.** * * * At the sentencing hearing, the court shall afford the counsel for the defendant and the attorney for the Government an opportunity to comment upon the probation officer's determination and on other matters relating to the appropriate sentence. Before imposing sentence, the court shall also—

(A) determine that the defendant and defendant's counsel have had the opportunity to read and discuss the presentence investigation report made available pursuant to subdivision (c)(3)(A) or summary thereof made available pursuant to subdivision (c)(3)(B);

(B) afford counsel for the defendant an opportunity to speak on behalf of the defendant; [and]

(C) address the defendant personally and determine if the defendant wishes to make a statement to present any information in mitigation of the sentence[.]; and

(D) *if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.*

The attorney for the Government shall have an [equivalent opportunity] *opportunity equivalent to that of the defendant's counsel to speak to the court.* Upon a motion that is jointly filed by the defendant and by the attorney for the Government, the court may hear in camera such a statement by the defendant, counsel for the defendant, *the victim*, or the attorney for the Government.

* * * * *

(f) DEFINITIONS.—for purposes of this rule—

(1) *the term "victim" means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—*

(A) *a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or*

(B) *1 or more family members or relatives designated by the court in case the victim is deceased or incapacitated, if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and*

(2) *the term "crime of violence or sexual abuse" means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.*

* * * * *

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

* * * * *

CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

* * * * *

§ 1445. Nonremovable actions

(a) A civil action in any State court against a railroad or its receivers or trustees, arising under sections 51–60 of Title 45, may not be removed to any district court of the United States.

(b) A civil action in any State court against a common carrier or its receivers or trustees to recover damages for delay, loss, or injury of shipments, arising under section 11707 of Title 49, may not be removed to any district court of the United States unless the matter in controversy exceeds \$10,000, exclusive of interest and costs.

(c) A civil action in any State court arising under the workmen's compensation laws of such State may not be removed to any district court of the United States.

(d) *A civil action in any State court arising under section 302 of the Violence Against Women Act of 1993 may not be removed to any district court of the United States.*

* * * * *

FEDERAL RULES OF EVIDENCE

* * * * *

Article IV. Relevancy and its Limits

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* * * * *

Rule 412. Rape cases; relevance of victim's past behavior

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, reputation or opinion evidence of the past sexual behavior of an alleged victim of such offense is not admissible.

* * * * *

(c)(1) * * * * *

* * * * *

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. *In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.*

* * * * *

(e) *INTERLOCUTORY APPEAL.*—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

(f) *RULE OF RELEVANCE AND PRIVILEGE.*—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.

Rule 412A. Evidence of victim's past behavior in other criminal cases

(a) *REPUTATION AND OPINION EVIDENCE EXCLUDED.*—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

(b) *ADMISSIBILITY.*—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

(2) the probative value of the evidence outweighs the danger of unfair prejudice.

(c) *PROCEDURES.*—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has

newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

Rule 412B. Evidence of past sexual behavior in civil cases

(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

(1) it is admitted in accordance with the procedures specified in subdivision (c); and

(2) the probative value of the evidence outweighs the danger of unfair prejudice.

(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the

hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

(A) the chain of reasoning leading to its finding of relevance; and

(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

(d) **DEFINITIONS.**—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.

Rule 413. Evidence of victim's clothing as inciting violence

Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.

* * * * *

Rule 414. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases

In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.

TITLE 42—PUBLIC HEALTH AND WELFARE

CHAPTER 21—CIVIL RIGHTS

* * * * *

§ 1988. Proceedings in vindication of civil rights: attorney's fees

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92-318, [or] title VI of the Civil Rights Act of 1964, or title III of the Violence Against Women Act of 1993, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

* * * * *

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

(Public Law 93-415)

* * * * *

SEC. 314. GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING.—The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under section 5711(a) of this title, for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.

* * * * *

GRANTS FOR PREVENTIONAL OF SEXUAL ABUSE AND EXPLOITATION

SEC. 316. (a) IN GENERAL.—*The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.*

(b) PRIORITY.—*In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.*

(c) **AUTHORIZATION OF APPROPRIATIONS.**—*There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1994, 1995, and 1996.*

(d) **DEFINITIONS.**—*For the purposes of this section—*

(1) *the term “street-based outreach and education” includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and*

(2) *the term “street youth” means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.*

* * * * *

SEC. [316] 317. APPROVAL OF APPLICATION BY SECRETARY; PRIORITY.—An application by a State, locality, or private entity for a grant under section 5711(a) of this title may be approved by the Secretary only if it is consistent with the applicable provisions of section 5711(a) of this title and meets the requirements set forth in section 5712 of this title. Priority shall be given to grants smaller than \$150,000. In considering grant applications under section 5711(a) of this title, priority shall be given to organizations which have a demonstrated experience in the provision of service to runaway and homeless youth and their families.

SEC. [317] 318. GRANTS TO PRIVATE ENTITIES; STAFFING.—Nothing in this part shall be construed to deny grants to private entities which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway and homeless youth center. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds.

* * * * *

THE PUBLIC HEALTH AND HEALTH SERVICES ACT

(Public Law 97-35)

* * * * *

TITLE IX—HEALTH SERVICES AND FACILITIES

Subtitle A—Block Grants

PREVENTIVE HEALTH, HEALTH SERVICES, AND PRIMARY CARE HEALTH BLOCK GRANTS

* * * * *

TITLE XIX—BLOCK GRANTS

PART A—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

* * * * *

SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

(a) *PERMITTED USE.*—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

- (1) educational seminars;
- (2) the operation of hotlines;
- (3) training programs for professionals;
- (4) the preparation of informational materials; and
- (5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

(b) *TARGETING OF EDUCATION PROGRAMS.*—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this section \$65,000,000 for each of fiscal years 1994, 1995, and 1996.

(d) *LIMITATION.*—Funds authorized under this section may only be used for providing rape prevention and education programs.

(e) *DEFINITION.*—For purposes of this section, the term “rape prevention and education” includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

(f) *TERMS.*—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.

FAMILY VIOLENCE PREVENTION AND SERVICE ACT

(Public Law 98–457)

* * * * *

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

* * * * *

STATE DEMONSTRATION GRANTS AUTHORIZED

SEC. 303. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents, the Secretary is authorized, in accordance with the provisions of this title, to make demonstration grants to States.

(2) No demonstration grant may be made under this subsection unless the chief executive officer of the State seeking such grant

submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

* * * * *

(C) set forth procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between urban and rural areas within such State *and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation;*

* * * * *

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and after opportunity for correction of any deficiencies.

* * * * *

(4) *Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.*

* * * * *

SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) *IN GENERAL.*—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

(b) *ACTIVITIES.*—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

(1) contracting with a carrier for the use of a toll-free telephone line;

(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

(4) publicizing the hotline to potential users throughout the United States.

(c) **APPLICATION.**—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

(A) the training program for hotline personnel;

(B) the hiring criteria for hotline personnel;

(C) the methods for the creation, maintenance and updating of a resource database; and

(D) a plan for publicizing the availability of the hotline;

(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

(4) contain such other information as the Secretary may require.

(d) **SPECIAL CONSIDERATIONS.**—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 1994, 1995, and 1996.

SEC. 317. ENCOURAGING ARREST POLICIES.

(a) **PURPOSE.**—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

(b) **ELIGIBILITY.**—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

(B) certify that their laws or official policies—

(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of

spouses violating the terms of a valid and outstanding protection order;

(C) demonstrate that their laws, policies, practices and training programs discourage "dual" arrests of abused and abuser;

(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim; and

(E) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony spouse abuse offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser; or that the abused bear the costs associated with the issuance or service of a warrant, protection order or witness subpoena.

(2) For purposes of this section—

(A) the term "protection order" includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a *pendente lite* order in another proceeding; and

(B) the term "spousal or spouse abuse" includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

(c) **DELEGATION AND AUTHORIZATION.**—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of \$25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

(d) **APPLICATION.**—An eligible grantee shall submit an application to the Secretary. Such an application shall—

(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

(2) describe the entity's plans to further the purposes listed in subsection (a);

(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

(e) **PRIORITY.**—*In awarding grants under this section, the Secretary shall give priority to a grantee that—*

(1) *does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and*

(2) *demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.*

(f) **REPORTING.**—*Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.*

(g) **REGULATIONS.**—*No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.*

SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) **GENERAL PURPOSE.**—*For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the Secretary). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.*

(b) **NATURE OF PROGRAM.**—*The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.*

(c) **REVIEW AND DISSEMINATION.**—*Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.*

(d) **AUTHORIZATION OF APPROPRIATIONS.**—*There is authorized to be appropriated to carry out this section \$400,000 for fiscal year 1994.*

THE SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987

(Public Law 100-17)

* * * * *

[CRIME PREVENTION AND SECURITY

[SEC. 24. Form funds made available pursuant to section 21 of this Act, the Secretary is authorized to make capital grants to public mass transit systems for crime prevention and security. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.]

GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

SEC. 24. (a) *GENERAL PURPOSE.*—From funds authorized under section 21, not to exceed \$10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

(b) *GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.*—

(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

(c) *REPORTING.*—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

(d) *INCREASED FEDERAL SHARE.*—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

(e) *SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.*—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

(f) *GENERAL REQUIREMENTS.*—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).

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CRIME CONTROL ACT OF 1990

(Public Law 101-647)

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TITLE V—PROTECTION OF CRIME VICTIMS

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SEC. 503. SERVICES TO VICTIMS.

(a) * * *

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(c) **DESCRIPTION OF SERVICES.**—(1) A responsible official shall—

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(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes. *The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for the human immunodeficiency virus during the 12 months following a serious assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.*

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CHILD ABUSE, DOMESTIC VIOLENCE, ADOPTION AND FAMILY SERVICES ACT OF 1992

(Public Law 102-295)

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TITLE III—REAUTHORIZATION OF PROGRAMS WITH RESPECT TO FAMILY VIOLENCE

* * * * *

SEC. 308. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

(a) PURPOSE AND GRANTS.—

(1) * * *

(2) **GRANTS.**—From the amounts appropriated under this title, the Secretary shall award grants to private nonprofit organizations for the establishment and maintenance of one national resource center (as provided for in subsection (b)) and not to exceed ~~【six】~~ *seven* special issue resource centers (as provided for in subsection (c)) focusing on one or more issues of concern to domestic violence victims.

(b) * * *

(c) **SPECIAL ISSUE RESOURCE CENTERS.**—The special issue resource centers established under subsection (a)(2) shall provide information, training and technical assistance to State and local domestic violence service providers, and shall specialize in at least one of the following areas of domestic violence service, prevention, or law:

(1) Criminal justice response to domestic violence, including court-mandated abuser treatment.

(2) Improving the response of Child Protective Service agencies to battered mothers of abused children.

(3) Child custody issues in domestic violence cases.

(4) The use of the self-defense plea by domestic violence victims.

(5) Improving interdisciplinary health care responses and access to health care resources for victims of domestic violence.

(6) Improving access to and the quality of legal representation for victims of domestic violence in civil litigation[.], *including the issuance and enforcement of protection orders.*

(7) *Providing technical assistance and training to State domestic violence coalitions.*

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SEC. 309. * * *

(1) * * *

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(5) The term “related assistance” means the provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance shall include—

(A) prevention services such as outreach and prevention services for victims and their children, employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school age children, family violence public awareness campaigns, and violence prevention counseling services to abusers;

(B) counseling with respect to family violence, counseling or other supportive services by peers individually or in groups, and referral to community social services;

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SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of sections 303 through 309 and section 313, \$60,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

[(b) SECTION 303 (a) AND (b).—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 80 percent shall be used for making grants under subsection 303(a), and not less than 10 percent shall be used for the purpose of carrying out section 303(b).

[(c) SECTION 308.—Of the amounts appropriated under subsection (a) for each fiscal year, 5 percent shall be used by the Secretary for making grants under section 308.]

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title \$85,000,000 for fiscal year 1994, \$100,000,000 for fiscal year 1995, and \$125,000,000 for fiscal year 1996.

SEC. 311. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

(a) IN GENERAL.—The Secretary shall award grants for the funding of State domestic violence coalitions. Such coalitions shall further the purposes of domestic violence intervention and prevention through activities, including—

(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

(B) planning and conducting State needs assessments and planning for comprehensive services;

(C) serving as an information clearinghouse and resource center for the State; and

(D) collaborating with other governmental systems which affect battered women;

[(1)] (2) working with judicial and law enforcement agencies to encourage appropriate responses to domestic violence cases and examine issues including—

(A) the inappropriateness of mutual protection orders;

* * * * *

(K) the use of training and technical assistance to law enforcement [and court officials and other professionals], court judges, officers and other criminal justice professionals.

* * * * *

[(2)] (3) work with family law judges, criminal court judges, Child Protective Services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in domestic violence cases as well as cases where domestic violence and child abuse are both present, including—

- (A) the inappropriateness of mutual protection orders;
- (B) the prohibition of mediation where domestic violence is involved;
- (C) the inappropriate use of marital or conjoint counseling in domestic violence cases;
- (D) the use of training and technical assistance for family law judges, *criminal court judges*, and court personnel;
- (E) the presumption of custody to domestic violence victims;
- (F) the use of comprehensive protection orders to grant fullest protections possible to victims of domestic violence, including temporary *custody* support and maintenance;
- (G) the development by Child Protective Service of supportive responses that enable victims to protect their children;
- (H) the implementation of [supervised visitations that do not endanger victims and their children] and *supervised visitations or denial of visitation to protect against danger to victims or their children*.
- (I) the possibility of permitting domestic violence victims to remove children from the State when the safety of the children or the victim is at risk;

[(3)] (4) conduct public education campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence *including information aimed at underserved racial, ethnic or language-minority populations*; and

[(4)] (5) participate in planning and monitoring of the distribution of grants and grant funds to their State under section 303(a).

(b) **ELIGIBILITY.**—To be eligible for a grant under this section, in entity shall be a statewide nonprofit State domestic violence coalition meeting the following conditions:

(1) The membership of the coalition includes representatives from a majority of the programs for victims of domestic violence in the State.

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HIGHER EDUCATION AMENDMENTS OF 1992

(Public Law 102-325)

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TITLE XV—RELATED PROGRAMS AND AMENDMENTS TO OTHER LAWS

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PART D—GRANTS FOR SEXUAL OFFENSES EDUCATION

SEC. 1541. GRANTS FOR CAMPUS SEXUAL OFFENSES EDUCATION.

(a) * * *

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[(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated \$10,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.]

(i) *For the purpose of carrying out this part, there are authorized to be appropriated \$20,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995, 1996, and 1997.*

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CHILD SUPPORT RECOVERY ACT OF 1992

(Public Law 102-521)

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PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

- Sec. 1601. Grant authorization.
- Sec. 1602. State applications.
- Sec. 1603. Review of State applications.
- Sec. 1604. Local applications.
- Sec. 1605. Distribution of funds.
- Sec. 1606. Evaluation.
- Sec. 1607. Definitions.

[PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

[Sec. 1701. Continuation of rules, authorities, and proceedings.]

PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

Sec. 1701. Purpose of the program and grants.

SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

- Sec. 1711. High intensity grants.*
- Sec. 1712. High intensity grant application.*

SUBPART 2—OTHER GRANTS TO STATES TO COMBAT VIOLENT CRIMES AGAINST WOMEN

- Sec. 1721. General grants to States.*
- Sec. 1722. General grants to tribes.*

SUBPART 3—GENERAL TERMS AND CONDITIONS

- Sec. 1731. General definitions.*
- Sec. 1732. General terms and conditions.*

PART R—TRANSITION—EFFECTIVE DATE—REPEALER

Sec. 1801. Continuation of rules, authorities, and proceedings.

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PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

(a) *GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent*

crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

(b) **PURPOSES FOR WHICH GRANTS MAY BE USED.**—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

Subpart 1—High Intensity Crime Area Grants

SEC. 1711. HIGH INTENSITY GRANTS.

(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance (referred to in this part as the “Director”) shall make grants to areas of “high intensity crime” against women.

(b) **DEFINITION.**—For purposes of this part, “high intensity crime area” means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1712.

SEC. 1712. HIGH INTENSITY GRANT APPLICATION.

(a) **COMPUTATION.**—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

(b) **USE OF DATA.**—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

(A) need for the grant funds;

(B) intended use of the grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

(f) DISBURSEMENT.—

(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

(A) equitably distribute funds on a geographic basis;

(B) determine the amount of subgrants based on the population to be served;

(C) give priority to areas with the greatest showing of need; and

(D) recognize and address the needs of underserved populations.

(g) **GRANTEE REPORTING.**—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

SEC. 1721. GENERAL GRANTS TO STATES.

(a) **GENERAL GRANTS.**—The Director may make grants to States, for use by States, units of local government in the States, and non-profit nongovernmental victim services programs in the States, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women.

(b) **AMOUNTS.**—From amounts appropriated, the amount of grants under subsection (a) shall be—

(1) \$500,000 to each State; and

(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(c) **QUALIFICATION.**—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with non-profit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs; and

(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

(d) **APPLICATION REQUIREMENTS.**—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from non-profit nongovernmental victim services pro-

grams showing their participation in developing the plan required by subsection (c)(2). Applications shall—

(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

(A) need for the grant funds;

(B) intended use of the grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

(e) **DISBURSEMENT.**—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

(A) give priority to areas with the greatest showing of need;

(B) determine the amount of subgrants based on the population and geographic area to be served;

(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

(D) recognize and address the needs of underserved populations.

(f) **GRANTEE REPORTING.**—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

SEC. 1722. GENERAL GRANTS TO TRIBES.

(a) **GENERAL GRANTS.**—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1701(b), and to reduce the rate of violent crimes against women in Indian country.

(b) **AMOUNTS.**—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of \$35,000 and maximum grants of \$300,000.

(c) **QUALIFICATION.**—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1701(b);

(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with non-profit; and

(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

(d) **APPLICATION REQUIREMENTS.**—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

(3) The term of any grant shall be for a minimum of 3 years.

(e) **GRANTEE REPORTING.**—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

(f) **DEFINITIONS.**—(1) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(2) The term "Indian country" has the meaning stated in section 1151 of title 18, United States Code.

Subpart 3—General Terms and Conditions

SEC. 1731. GENERAL DEFINITIONS.

As used in this part—

(1) the term "victim services" means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic

violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

(2) the term "prosecution" means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

(3) the term "law enforcement" means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

(4) the term "sexual assault" includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

(5) the term "domestic violence" includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

(6) the term "underserved populations" includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

SEC. 1732. GENERAL TERMS AND CONDITIONS.

(a) **NONMONETARY ASSISTANCE.**—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

(b) **BUREAU REPORTING.**—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

(1) the amount of grants made under this part;

(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

(4) a copy of each grantee report filed pursuant to sections 1712(g), 1721(f) and 1722(c).

(c) **REGULATIONS.**—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1994, 1995, and 1996, \$100,000,000 to carry out subpart 1, and \$190,000,000 to carry out subpart 2, and \$10,000,000 to carry out section 1722 of subpart 2.

PART [Q] R—TRANSITION—EFFECTIVE DATE—REPEALER

Sec. [1701] 1801. Continuation of rules, authorities, and proceedings.

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