

112TH CONGRESS
1ST SESSION

H. R. 3271

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2011

Ms. ROYBAL-ALLARD (for herself and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—REAUTHORIZATION OF NATIONAL RESOURCE CENTER GRANTS

Sec. 101. Grant program reauthorization.

TITLE II—EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 201. Amendment to VAWA.
Sec. 202. Conforming amendment.
Sec. 203. Effective date.

TITLE III—VICTIMS’ EMPLOYMENT SUSTAINABILITY

Sec. 301. Amendment to VAWA.
Sec. 302. Attorney’s fees.

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

Sec. 401. Unemployment compensation and training provisions.

TITLE V—VICTIMS OF ABUSE INSURANCE PROTECTION

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Discriminatory acts prohibited.
Sec. 504. Insurance protocols for subjects of abuse.
Sec. 505. Reasons for adverse actions.
Sec. 506. Life insurance.
Sec. 507. Subrogation without consent prohibited.
Sec. 508. Enforcement.
Sec. 509. Effective date.

TITLE VI—SEVERABILITY

Sec. 601. Severability.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

- 3 (1) Violence against women has been reported
- 4 to be the leading cause of physical injury to women.
- 5 Such violence has a devastating impact on women’s
- 6 physical and emotional health, financial security,
- 7 and ability to maintain their jobs, and thus impacts
- 8 interstate commerce.

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

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

14 (4) United States medical costs for domestic vi-
15 olence have been estimated to be \$31,000,000,000
16 per year. The medical cost associated with each inci-
17 dent of domestic violence ranges from \$387 to \$948,
18 including costs of health care and mental health
19 services.

20 (5) Domestic violence crimes account for ap-
21 proximately 15 percent of total crime costs in the
22 United States each year.

23 (6)(A) According to the National Institute of
24 Justice, crime costs an estimated \$450,000,000,000
25 annually in medical expenses, lost earnings, social

1 service costs, pain, suffering, and reduced quality of
2 life for victims, which harms the Nation's produc-
3 tivity and drains the Nation's resources.

4 (B) Violent crime accounts for
5 \$426,000,000,000 per year of this amount.

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

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

15 (8) Homicide is the leading cause of death for
16 women on the job. Husbands, boyfriends, and ex-
17 partners commit 15 percent of workplace homicides
18 against women.

19 (9) According to a recent study by the National
20 Institutes of Health and Centers for Disease Control
21 and Prevention, each year there are 5,300,000 non-
22 fatal violent victimizations committed by intimate
23 partners against women. Female murder victims
24 were substantially more likely than male murder vic-
25 tims to have been killed by an intimate partner.

1 About 1/3 of female murder victims, and about 4 per-
2 cent of male murder victims, were killed by an inti-
3 mate partner.

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

10 (11) Seventy-eight percent of human resources
11 professionals consider partner violence a workplace
12 issue. However, more than 70 percent of United
13 States workplaces have no formal program or policy
14 that addresses workplace violence, let alone domestic
15 violence. In fact, only 4 percent of employers pro-
16 vided training on domestic violence.

17 (12) Ninety-four percent of corporate security
18 and safety directors at companies nationwide rank
19 domestic violence as a high security concern.

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

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

7 (15) According to a 1998 report of the General
8 Accounting Office, between $\frac{1}{4}$ and $\frac{1}{2}$ of domestic
9 violence victims surveyed in 3 studies reported that
10 they lost a job due, at least in part, to domestic vio-
11 lence.

12 (16) Employees in the United States who have
13 been victims of domestic violence, dating violence,
14 sexual assault, or stalking too often suffer adverse
15 consequences in the workplace as a result of their
16 victimization.

17 (17) Domestic violence also affects abusers'
18 ability to work. A recent study found that 48 per-
19 cent of abusers reported having difficulty concen-
20 trating at work and 42 percent reported being late
21 to work. Seventy-eight percent reported using their
22 own company's resources in connection with the abu-
23 sive relationship.

24 (18) Abusers frequently seek to exert financial
25 control over their partners by actively interfering

1 with their ability to work, including preventing their
2 partners from going to work, harassing their part-
3 ners at work, limiting the access of their partners to
4 cash or transportation, and sabotaging the child care
5 arrangements of their partners.

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

9 (20) More than $\frac{1}{2}$ of women receiving welfare
10 have been victims of domestic violence as adults and
11 between $\frac{1}{4}$ and $\frac{1}{3}$ of women receiving welfare re-
12 ported being abused in the last year.

13 (21) Victims of domestic violence also fre-
14 quently miss work due to injuries, court dates, and
15 safety concerns requiring legal protections. Victims
16 of intimate partner violence lose 8,000,000 days of
17 paid work each year, the equivalent of over 32,000
18 full-time jobs and 5,600,000 days of household pro-
19 ductivity.

20 (22) Approximately 10,200,000 people have
21 been stalked at some time in their lives. Four out of
22 every 5 stalking victims are women. Stalkers harass
23 and terrorize their victims by spying on the victims,
24 standing outside their places of work or homes, mak-

1 ing unwanted phone calls, sending or leaving un-
2 wanted letters or items, or vandalizing property.

3 (23) More than 35 percent of stalking victims
4 report losing time from work due to the stalking and
5 7 percent never return to work.

6 (24) The prevalence of sexual assault and other
7 violence against women at work is also dramatic.
8 About 36,500 individuals, 80 percent of whom are
9 women, were raped or sexually assaulted in the
10 workplace each year from 1993 through 1999. Half
11 of all female victims of violent workplace crimes
12 know their attackers. Nearly one out of 10 violent
13 workplace incidents are committed by partners or
14 spouses. Women who work for State and local gov-
15 ernments suffer a higher incidence of workplace as-
16 saults, including rapes, than women who work in the
17 private sector.

18 (25) According to recent Government estimates,
19 approximately 987,400 rapes occur annually in the
20 United States, with 89 percent of the rapes per-
21 petrated against female victims. Since 2001, rapes
22 have actually increased by 4 percent.

23 (26) Sexual assault, whether occurring in or out
24 of the workplace, can impair an employee's work
25 performance, require time away from work, and un-

1 determine the employee's ability to maintain a job. Al-
2 most 50 percent of sexual assault survivors lose their
3 jobs or are forced to quit in the aftermath of the as-
4 saults. An estimated 24 to 30 percent of abused
5 working women lose their jobs due to their abuse.

6 (27) Domestic and sexual violence victims have
7 been subjected to discrimination by private and
8 State employers, including discrimination motivated
9 by sex and stereotypic notions about women.

10 (28) Domestic violence victims and third parties
11 who help them have been subjected to discriminatory
12 practices by life, disability, and property and cas-
13 ualty insurers and employers who self-insure em-
14 ployee benefits, who have denied or canceled cov-
15 erage, rejected claims, and raised rates based on do-
16 mestic violence. Although some State legislatures
17 have tried to address those practices, the scope of
18 protection afforded by the laws adopted varies from
19 State to State, with many failing to address the
20 problem involved comprehensively. Moreover, Federal
21 law prevents States from protecting the almost 40
22 percent of employees whose employers self-insure
23 employee benefits.

24 (29) Only the States of Hawaii, Illinois, New
25 York, and Oregon prohibit employment discrimina-

1 tion against all victims of domestic violence, sexual
2 assault, or stalking.

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

6 (A) obtain orders of protection;

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

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

11 (31) Only 11 States provide domestic violence
12 victims with leave from work to go to court, to go
13 to the doctor, or to take other steps to address the
14 domestic violence in their lives.

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

20 (33) Existing Federal law does not explicitly—

21 (A) authorize victims of domestic violence,
22 dating violence, sexual assault, or stalking to
23 take leave from work to seek legal assistance
24 and redress, counseling, or assistance with safe-
25 ty planning activities;

1 (B) address the eligibility of victims of do-
2 mestic violence, dating violence, sexual assault,
3 or stalking for unemployment compensation;

4 (C) provide job protection to actual or per-
5 ceived victims of domestic violence, dating vio-
6 lence, sexual assault, or stalking; or

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

13 (ii) prohibit insurers from disclosing infor-
14 mation about abuse and the location of the vic-
15 tims through insurance databases and other
16 means.

17 **TITLE I—REAUTHORIZATION OF**
18 **NATIONAL RESOURCE CEN-**
19 **TER GRANTS**

20 **SEC. 101. GRANT PROGRAM REAUTHORIZATION.**

21 (a) INFORMATION AND ASSISTANCE TO VICTIMS'
22 SERVICE PROVIDERS AND COMMUNITY ORGANIZA-
23 TIONS.—Section 41501(a) of the Violence Against Women
24 Act (42 U.S.C. 14043f(a)) is amended by striking the pe-
25 riod at the end and inserting “, and to victim service orga-

1 nizations (as defined in section 41701), including commu-
2 nity based organizations, and tribal, State and territorial
3 domestic violence or sexual assault coalitions to enable
4 them to provide resource materials or other assistance to
5 employers, labor organizations, or employees.”.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
7 41501(e) of such Act is amended by striking “2007
8 through 2011” and inserting “2012 through 2016”.

9 (c) ADMINISTRATIVE PROVISIONS.—Section 41501 of
10 such Act is further amended by adding at the end the fol-
11 lowing:

12 “(g) ADMINISTRATIVE COSTS.—

13 “(1) IN GENERAL.—From the amount appro-
14 priated under subsection (e) for each fiscal year, the
15 Attorney General shall not use more than 2.5 per-
16 cent for the administration and monitoring of grants
17 made available under this section.

18 “(2) EVALUATIONS.—From the amount appro-
19 priated under subsection (e) for each fiscal year, the
20 Director shall not use more than 5 percent to award
21 contracts or cooperative agreements to entities with
22 demonstrated expertise in program evaluation, to
23 evaluate programs under this section.”.

1 **TITLE II—EMERGENCY LEAVE**
2 **FOR ADDRESSING DOMESTIC**
3 **VIOLENCE, DATING VIO-**
4 **LENCE, SEXUAL ASSAULT, OR**
5 **STALKING**

6 **SEC. 201. AMENDMENT TO VAWA.**

7 The Violence Against Women Act is amended by add-
8 ing at the end the following new subtitle:

9 **“Subtitle Q—Entitlement to Emer-**
10 **gency Leave for Addressing Do-**
11 **mestic Violence, Dating Vio-**
12 **lence, Sexual Assault, or Stalk-**
13 **ing**

14 **“SEC. 41701. DEFINITIONS.**

15 “As used in this subtitle, the following definitions
16 apply:

17 “(1) EMPLOY; STATE.—The terms ‘employ’ and
18 ‘State’ have the meanings given the terms in section
19 3 of the Fair Labor Standards Act of 1938 (29
20 U.S.C. 203).

21 “(2) EMPLOYEE.—

22 “(A) IN GENERAL.—The term ‘employee’
23 means any person employed by an employer. In
24 the case of an individual employed by a public
25 agency, such term means an individual em-

1 employed as described in section 3(e)(2) of the
2 Fair Labor Standards Act of 1938 (29 U.S.C.
3 203(e)(2)).

4 “(B) BASIS.—The term includes a person
5 employed as described in subparagraph (A) on
6 a full- or part-time basis, for a fixed time pe-
7 riod, on a temporary basis, pursuant to a detail,
8 or as a participant in a work assignment as a
9 condition of receipt of Federal or State income-
10 based public assistance.

11 “(3) EMPLOYER.—The term ‘employer’—

12 “(A) means any person engaged in com-
13 merce or in any industry or activity affecting
14 commerce who employs fifteen or more individ-
15 uals; and

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

1 “(4) EMPLOYMENT BENEFITS.—The term ‘em-
2 ployment benefits’ means all benefits provided or
3 made available to employees by an employer, includ-
4 ing group life insurance, health insurance, disability
5 insurance, sick leave, annual leave, educational bene-
6 fits, and pensions, regardless of whether such bene-
7 fits are provided by a practice or written policy of
8 an employer or through an ‘employee benefit plan’,
9 as defined in section 3(3) of the Employee Retirement
10 Income Security Act of 1974 (29 U.S.C.
11 1002(3)).

12 “(5) FAMILY OR HOUSEHOLD MEMBER.—The
13 term ‘family or household member’, used with re-
14 spect to a person, means a nonabusive individual
15 who is a spouse, former spouse, parent, son or
16 daughter, or person residing or formerly residing in
17 the same dwelling unit as the person.

18 “(6) PARENT; SON OR DAUGHTER.—The terms
19 ‘parent’ and ‘son or daughter’ have the meanings
20 given the terms in section 101 of the Family and
21 Medical Leave Act of 1993 (29 U.S.C. 2611).

22 “(7) PERSON.—The term ‘person’ has the
23 meaning given the term in section 3 of the Fair
24 Labor Standards Act of 1938 (29 U.S.C. 203).

1 “(8) PUBLIC AGENCY.—The term ‘public agen-
2 cy’ has the meaning given the term in section 3 of
3 the Fair Labor Standards Act of 1938 (29 U.S.C.
4 203).

5 “(9) PUBLIC ASSISTANCE.—The term ‘public
6 assistance’ includes cash, food stamps, medical as-
7 sistance, housing assistance, and other benefits pro-
8 vided on the basis of income by a public agency.

9 “(10) REDUCED LEAVE SCHEDULE.—The term
10 ‘reduced leave schedule’ means a leave schedule that
11 reduces the usual number of hours per workweek, or
12 hours per workday, of an employee.

13 “(11) SECRETARY.—The term ‘Secretary’
14 means the Secretary of Labor.

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

24 “(13) VICTIM SERVICES ORGANIZATION.—The
25 term ‘victim services organization’ means a non-

1 profit, nongovernmental organization that provides
2 assistance to victims of domestic violence, dating vio-
3 lence, sexual assault, or stalking, or to advocates for
4 such victims, including a rape crisis center, an orga-
5 nization carrying out a domestic violence program,
6 an organization operating a shelter or providing
7 counseling services, or an organization providing as-
8 sistance through the legal process.

9 **“SEC. 41702. ENTITLEMENT TO EMERGENCY LEAVE FOR AD-
10 DRESSING DOMESTIC VIOLENCE, DATING VI-
11 OLENCE, SEXUAL ASSAULT, OR STALKING.**

12 “(a) ENTITLEMENT TO LEAVE.—

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

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

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

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

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

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

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

21 “(3) SCHEDULE.—Leave described in para-
22 graph (1) may be taken intermittently or on a re-
23 duced leave schedule.

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

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

3 “(c) CERTIFICATION.—

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

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

12 “(B) the leave is for one of the purposes
13 enumerated in subsection (a)(1).

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

17 “(A) a sworn statement of the employee;

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

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

3 “(C) a police or court record; or

4 “(D) other corroborating evidence.

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

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

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

16 “(e) EMPLOYMENT AND BENEFITS.—

17 “(1) RESTORATION TO POSITION.—

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

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

1 “(ii) to be restored to an equivalent
2 position with equivalent employment bene-
3 fits, pay, and other terms and conditions of
4 employment.

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

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

12 “(i) the accrual of any seniority or
13 employment benefits during any period of
14 leave; or

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

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

1 “(2) EXEMPTION CONCERNING CERTAIN HIGH-
2 LY COMPENSATED EMPLOYEES.—

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

7 “(i) such denial is necessary to pre-
8 vent substantial and grievous economic in-
9 jury to the operations of the employer;

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

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

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

25 “(3) MAINTENANCE OF HEALTH BENEFITS.—

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

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

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

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

23 “(I) the continuation of, recur-
24 rence of, or onset of an episode of do-
25 mestic violence, dating violence, sexual

1 assault, or stalking, that entitles the
2 employee to leave pursuant to this
3 section; or

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

6 “(C) CERTIFICATION.—

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

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

19 “(I) a sworn statement of the
20 employee;

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

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

8 “(III) a police or court record; or

9 “(IV) other corroborating evi-
10 dence.

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

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

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

25 “(f) PROHIBITED ACTS.—

1 “(1) INTERFERENCE WITH RIGHTS.—

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

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

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

16 “(ii) opposed any practice made un-
17 lawful by this section.

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

1 assistance of the individual because the indi-
2 vidual—

3 “(i) exercised any right provided
4 under this section; or

5 “(ii) opposed any practice made un-
6 lawful by this section.

7 “(2) INTERFERENCE WITH PROCEEDINGS OR
8 INQUIRIES.—It shall be unlawful for any person to
9 discharge or in any other manner discriminate (as
10 described in subparagraph (B) or (C) of paragraph
11 (1)) against any individual because such indi-
12 vidual—

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

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

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

23 “(g) ENFORCEMENT.—

24 “(1) CIVIL ACTION BY AFFECTED INDIVID-
25 UALS.—

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

4 “(i) for damages equal to—

5 “(I) the amount of—

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

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

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

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

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

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

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

22 “(i) the individuals; or

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

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

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

11 “(i) on the filing of a complaint by
12 the Secretary in an action under para-
13 graph (4) in which restraint is sought of
14 any further delay in the payment of the
15 amount described in subparagraph (A)(i)
16 to such individual by an employer respon-
17 sible under subparagraph (A) for the pay-
18 ment; or

19 “(ii) on the filing of a complaint by
20 the Secretary in an action under para-
21 graph (2) in which a recovery is sought of
22 the damages described in subparagraph
23 (A)(i) owing to an affected individual by
24 an employer liable under subparagraph
25 (A),

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

4 “(2) ACTION BY THE SECRETARY.—

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

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

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

1 “(3) LIMITATION.—

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

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

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

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

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

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

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

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

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

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

22 “(8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

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

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

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

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

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

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

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

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

11 **“SEC. 41703. EXISTING LEAVE USABLE FOR ADDRESSING**
12 **DOMESTIC VIOLENCE, DATING VIOLENCE,**
13 **SEXUAL ASSAULT, OR STALKING.**

14 “An employee who is entitled to take paid or unpaid
15 leave (including family, medical, sick, annual, personal, or
16 similar leave) from employment, pursuant to State or local
17 law, a collective bargaining agreement, or an employment
18 benefits program or plan, may elect to substitute any pe-
19 riod of such leave for an equivalent period of leave pro-
20 vided under section 41702.

21 **“SEC. 41704. EMERGENCY BENEFITS.**

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

1 term emergency benefits to an individual for any period
2 of leave the individual takes pursuant to section 41702.

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

7 “(c) TIMING.—

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

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

16 **“SEC. 41705. EFFECT ON OTHER LAWS AND EMPLOYMENT**
17 **BENEFITS.**

18 “(a) MORE PROTECTIVE LAWS, AGREEMENTS, PRO-
19 GRAMS, AND PLANS.—Nothing in this title shall be con-
20 strued to supersede any provision of any Federal, State,
21 or local law, collective bargaining agreement, or employ-
22 ment benefits program or plan that provides—

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

1 “(2) leave benefits for a larger population of
2 victims of domestic violence, dating violence, sexual
3 assault, or stalking (as defined in such law, agree-
4 ment, program, or plan) than the victims of domes-
5 tic violence, dating violence, sexual assault, or stalk-
6 ing covered under this title.

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

13 **“SEC. 41706. REGULATIONS.**

14 “(a) IN GENERAL.—

15 “(1) AUTHORITY TO ISSUE REGULATIONS.—Ex-
16 cept as provided in subsections (b), (c), and (d), the
17 Secretary shall issue regulations to carry out this
18 title.

19 “(2) REGULATIONS REGARDING NOTICES.—The
20 regulations described in paragraph (1) shall include
21 regulations requiring every employer to post and
22 keep posted, in conspicuous places on the premises
23 of the employer where notices to employees are cus-
24 tomarily placed, a notice, to be prepared or approved
25 by the Secretary, summarizing the provisions of this

1 title and providing information on procedures for fil-
2 ing complaints. The Secretary shall develop such a
3 notice and provide copies to employers upon request
4 without charge.

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

12 “(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The
13 Office of Personnel Management shall prescribe the regu-
14 lations described in subsection (a) with respect to individ-
15 uals described in subparagraph (A) or (B) of section
16 3(e)(2) of the Fair Labor Standards Act of 1938 (29
17 U.S.C. 203(e)(2)) (other than an individual employed by
18 an entity of the legislative branch of the Federal Govern-
19 ment). The regulations prescribed under this subsection
20 shall, to the extent appropriate, be consistent with the reg-
21 ulations prescribed by the Secretary under subsection (a).

22 “(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
23 ANCE.—The President shall prescribe the regulations de-
24 scribed in subsection (a) with respect to applicants for and
25 recipients of public assistance, in the case of violations of

1 section 41702(f)(1)(C), or section 41702(f)(2) due to dis-
2 crimination described in section 41702(f)(1)(C). The regu-
3 lations prescribed under this subsection shall, to the extent
4 appropriate, be consistent with the regulations prescribed
5 by the Secretary under subsection (a).”.

6 **SEC. 202. CONFORMING AMENDMENTS.**

7 (a) SOCIAL SECURITY ACT.—Section 404 of the So-
8 cial Security Act (42 U.S.C. 604) is amended by adding
9 at the end the following:

10 “(l) AUTHORITY TO PROVIDE EMERGENCY BENE-
11 FITS.—A State that receives a grant under section 403
12 may use the grant to provide nonrecurrent short-term
13 emergency benefits, in accordance with section 41704 of
14 the Violence Against Women Act, to individuals who take
15 leave pursuant to section 41702 of that Act, without re-
16 gard to whether the individuals receive assistance under
17 the State program funded under this part.”.

18 (b) REHABILITATION ACT.—Section 1003(a)(1) of
19 the Rehabilitation Act Amendments of 1986 (42 U.S.C.
20 2000d–7(a)(1)) is amended by inserting “section 41702
21 of the Violence Against Women Act,” after “Civil Rights
22 Act of 1964,”.

23 **SEC. 203. EFFECTIVE DATE.**

24 The amendments made by this title take effect 180
25 days after the date of enactment of this Act.

1 **TITLE III—VICTIMS’**
2 **EMPLOYMENT SUSTAINABILITY**

3 **SEC. 301. AMENDMENT TO VAWA.**

4 The Violence Against Women Act, as amended by
5 section 101, is further amended by adding at the end the
6 following:

7 **“Subtitle R—Victims’ Employment**
8 **Sustainability**

9 **“SEC. 41801. SHORT TITLE.**

10 “‘This subtitle may be cited as the ‘Victims’ Employ-
11 ment Sustainability Act’.

12 **“SEC. 41802. PROHIBITED DISCRIMINATORY ACTS.**

13 “(a) IN GENERAL.—An employer shall not fail to
14 hire, refuse to hire, discharge, or harass any individual,
15 or otherwise discriminate against any individual with re-
16 spect to the compensation, terms, conditions, or privileges
17 of employment of the individual (including retaliation in
18 any form or manner), and a public agency shall not deny,
19 reduce, or terminate the benefits of, otherwise sanction,
20 or harass any individual, or otherwise discriminate against
21 any individual with respect to the amount, terms, or condi-
22 tions of public assistance of the individual (including retal-
23 iation in any form or manner), because—

24 “(1) the individual involved is or the employer
25 or public agency involved perceives that individual to

1 be a victim of domestic violence, dating violence, sex-
2 ual assault, or stalking;

3 “(2) that individual attended, participated in,
4 prepared for, or requested leave to attend, partici-
5 pate in, or prepare for, a criminal or civil court pro-
6 ceeding relating to an incident of domestic violence,
7 dating violence, sexual assault, or stalking of which
8 the individual, or the family or household member of
9 the individual, was a victim;

10 “(3) that individual, in response to actual or
11 threatened domestic violence, dating violence, sexual
12 assault, or stalking, requested that the employer or
13 public agency implement a reasonable safety proce-
14 dure or a job-related modification to enhance the se-
15 curity of that individual or safeguard the workplace
16 involved; or

17 “(4) the workplace is disrupted or threatened
18 by the action of a person whom that individual
19 states has committed or threatened to commit do-
20 mestic violence, dating violence, sexual assault, or
21 stalking against that individual, or that individual’s
22 family or household member.

23 “(b) DEFINITIONS.—In this section:

24 “(1) DISCRIMINATE.—The term ‘discriminate’,
25 used with respect to the terms, conditions, or privi-

1 leges of employment or with respect to the terms or
2 conditions of public assistance, includes failing to
3 implement, on request from an individual, in re-
4 sponse to actual or threatened domestic violence,
5 dating violence, sexual assault, or stalking, a reason-
6 able safety procedure or a job-related modification to
7 enhance the security of that individual or safeguard
8 the workplace (such as installation of a lock, change
9 of a telephone number or seating assignment, provi-
10 sion of a transfer, provision of leave, modification of
11 a schedule, or adjustment of a work requirement),
12 unless the employer or public agency can dem-
13 onstrate that granting the request would impose an
14 undue hardship on the operation of the employer or
15 public agency.

16 “(2) **UNDUE HARDSHIP.**—The term ‘undue
17 hardship’ means an action requiring significant dif-
18 ficulty or expense.

19 **“SEC. 41803. ENFORCEMENT.**

20 “(a) **CIVIL ACTION BY INDIVIDUALS.**—

21 “(1) **LIABILITY.**—Any employer that violates
22 section 41802 shall be liable to any individual af-
23 fected for—

24 “(A) damages equal to the amount of
25 wages, salary, employment benefits, or other

1 compensation denied or lost to such individual
2 by reason of the violation, and the interest on
3 that amount calculated at the prevailing rate;

4 “(B) compensatory damages, including
5 damages for future pecuniary losses, emotional
6 pain, suffering, inconvenience, mental anguish,
7 loss of enjoyment or life, and other nonpecu-
8 niary losses;

9 “(C) such punitive damages, up to 3 times
10 the amount of actual damages sustained, as the
11 court described in paragraph (2) shall deter-
12 mine to be appropriate; and

13 “(D) such equitable relief as may be ap-
14 propriate, including employment, reinstatement,
15 and promotion.

16 “(2) RIGHT OF ACTION.—An action to recover
17 the damages or equitable relief prescribed in para-
18 graph (1) may be maintained against any employer
19 in any Federal or State court of competent jurisdic-
20 tion by any one or more individuals described in sec-
21 tion 41802.

22 “(b) ACTION BY DEPARTMENT OF JUSTICE.—The
23 Attorney General may bring a civil action in any Federal
24 or State court of competent jurisdiction to recover the
25 damages or equitable relief described in subsection (a)(1).

1 “(c) LIBRARY OF CONGRESS.—Notwithstanding any
2 other provision of this section, in the case of the Library
3 of Congress, the authority of the Secretary under this sec-
4 tion shall be exercised by the Librarian of Congress.

5 “(d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

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

13 “(2) AUTHORITY.—In the case described in
14 subparagraph (A), the powers, remedies, and proce-
15 dures provided (in the case of a violation of section
16 2302(b)(1)(A) of title 5, United States Code) in title
17 5, United States Code, to an employing agency, the
18 Office of Special Counsel, the Merit Systems Protec-
19 tion Board, or any person alleging a violation of
20 such section 2302(b)(1)(A), shall be the powers,
21 remedies, and procedures this section provides in the
22 case of a violation of section 41802 to that agency,
23 that Office, that Board, or any person alleging a vio-
24 lation of section 41802, respectively, against an em-
25 ployee who is such an individual.

1 “(e) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
2 ANCE.—Consistent with regulations prescribed under sec-
3 tion 41805(d), the President shall ensure that any public
4 agency that violates section 41802(a) by taking an action
5 prohibited under section 41802(a) against any individual
6 with respect to the amount, terms, or conditions of public
7 assistance, shall provide to any individual who receives a
8 less favorable amount, term, or condition of public assist-
9 ance as a result of the violation—

10 “(1)(A) the amount of any public assistance de-
11 nied or lost to such individual by reason of the viola-
12 tion; and

13 “(B) the interest on the amount described in
14 clause (i) calculated at the prevailing rate; and

15 “(2) such equitable relief as may be appro-
16 priate.

17 **“SEC. 41804. REGULATIONS.**

18 “(a) IN GENERAL.—Except as provided in sub-
19 sections (b), (c), and (d), the Secretary shall issue regula-
20 tions to carry out this title.

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

1 the regulations prescribed by the Secretary under sub-
2 section (a).

3 “(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The
4 Office of Personnel Management, after consultation under
5 the Office of Special Counsel and the Merit Systems Pro-
6 tection Board, shall prescribe the regulations described in
7 subsection (a) with respect to individuals described in sub-
8 paragraph (A) or (B) of section 3(e)(2) of the Fair Labor
9 Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than
10 an individual employed by an entity of the legislative
11 branch of the Federal Government). The regulations pre-
12 scribed under this subsection shall, to the extent appro-
13 priate, be consistent with the regulations prescribed by the
14 Secretary under subsection (a).

15 “(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
16 ANCE.—The President shall prescribe the regulations de-
17 scribed in subsection (a) with respect to public agencies
18 providing public assistance as described in section
19 41803(e), including violations of section 41802(a) by such
20 agencies. The regulations prescribed under this subsection
21 shall, to the extent appropriate, be consistent with the reg-
22 ulations prescribed by the Secretary under subsection
23 (a).”.

1 **SEC. 302. ATTORNEY'S FEES.**

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

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

12 **SEC. 401. UNEMPLOYMENT COMPENSATION AND TRAINING**
13 **PROVISIONS.**

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

17 (1) in subsection (a)—

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

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

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

24 “(19) compensation shall not be denied where
25 an individual is separated from employment due to
26 circumstances resulting from the individual’s experi-

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

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

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

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

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

20 “(B) presentation of any one of such forms
21 of documentation shall be sufficient to dem-
22 onstrate eligibility, except that a State may re-
23 quire the presentation of a form of identifica-
24 tion in addition to the written statement of
25 claimant described in paragraph (2)(G).

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

2 The list referred to in paragraph (1)(A) shall include
3 not less than three of the following forms of docu-
4 mentation:

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

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

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

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

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

21 “(F) A written statement that the appli-
22 cant or the applicant’s minor child is a victim
23 of domestic violence, dating violence, sexual as-
24 sault, or stalking, provided by a social worker,
25 member of the clergy, shelter worker, attorney

1 at law, or other professional who has assisted
2 the applicant in dealing with the domestic vio-
3 lence, dating violence, sexual assault, or stalk-
4 ing.

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

6 “(3) DOMESTIC VIOLENCE, DATING VIOLENCE,
7 SEXUAL ASSAULT, AND STALKING DEFINED.—The
8 terms ‘domestic violence’, ‘dating violence’, ‘sexual
9 assault’, and ‘stalking’ have the meanings given such
10 terms in section 40002 of the Violence Against
11 Women Act.”.

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

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

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

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

22 “(A) applicants for unemployment com-
23 pensation and individuals inquiring about such
24 compensation are adequately notified of the
25 provisions of subsections (a)(19) and (g) of sec-

1 tion 3304 of the Internal Revenue Code of 1986
2 (relating to the availability of unemployment
3 compensation for victims of domestic violence,
4 dating violence, sexual assault, or stalking); and

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

7 “(i) the nature and dynamics of do-
8 mestic violence, dating violence, sexual as-
9 sault, or stalking (as such terms are de-
10 fined in section 40002 of the Violence
11 Against Women Act); and

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

17 “(I) requests for unemployment
18 compensation based on separations
19 stemming from domestic violence, dat-
20 ing violence, sexual assault, or stalk-
21 ing (as so defined) are reliably
22 screened, identified, and adjudicated;
23 and

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

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

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

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

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

24 “(ii) assistance made available by the
25 State to victims of domestic violence, dat-

1 ing violence, sexual assault, or stalking (as
2 such terms are defined in section 40002 of
3 the Violence Against Women Act);

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

8 “(i) the nature and dynamics of do-
9 mestic violence, dating violence, sexual as-
10 sault, or stalking (as so defined);

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

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

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

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

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

13 “(D) ensure that the training required
14 under subparagraphs (B) and, if applicable,
15 (C)(ii) is provided through a training program
16 operated by an eligible entity (as defined in sec-
17 tion 401(d)(2) of the Security and Financial
18 Empowerment Act).”.

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

22 (1) GRANTS AUTHORIZED.—The Secretary of
23 Health and Human Services (in this subsection re-
24 ferred to as the “Secretary”) is authorized to
25 award—

1 (A) a grant to a national victim services
2 organization in order for such organization to—

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

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

14 (B) grants to State, tribal, or local agen-
15 cies in order for such agencies to contract with
16 eligible entities to provide State, tribal, or local
17 case workers and other State, tribal, or local
18 agency personnel responsible for administering
19 the temporary assistance to needy families pro-
20 gram established under part A of title IV of the
21 Social Security Act in a State or Indian res-
22 ervation with the training required under sub-
23 paragraphs (B) and, if applicable, (C)(ii) of
24 such section 402(a)(8).

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

4 (A) that is—

5 (i) a State or tribal domestic violence
6 coalition or sexual assault coalition;

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

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

24 (B) that—

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

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

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

16 (4) REPORTS.—

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

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

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

3 (5) AUTHORIZATION OF APPROPRIATIONS.—

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

6 (i) \$1,000,000 for fiscal year 2012 to
7 carry out the provisions of paragraph
8 (1)(A); and

9 (ii) \$12,000,000 for each of fiscal
10 years 2013 through 2015 to carry out the
11 provisions of paragraph (1)(B).

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

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

24 (e) EFFECT ON EXISTING LAWS, ETC.—

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

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

17 (f) EFFECTIVE DATE.—

18 (1) UNEMPLOYMENT AMENDMENTS.—

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

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

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

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

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

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

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

5 (2) TANF AMENDMENT.—

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

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

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

6 **TITLE V—VICTIMS OF ABUSE**
7 **INSURANCE PROTECTION**

8 **SEC. 501. SHORT TITLE.**

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

11 **SEC. 502. DEFINITIONS.**

12 In this title, the following definitions apply:

13 (1) ABUSE.—The term “abuse” means the oc-
14 currence of one or more of the following acts by a
15 current or former household or family member, inti-
16 mate partner, or caretaker:

17 (A) Attempting to cause or causing an-
18 other person bodily injury, physical harm, sub-
19 stantial emotional distress, or psychological
20 trauma.

21 (B) Attempting to engage in or engaging
22 in rape, sexual assault, or involuntary sexual
23 intercourse.

24 (C) Engaging in a course of conduct or re-
25 peatedly committing acts toward another per-

1 son, including following the person without
2 proper authority and under circumstances that
3 place the person in reasonable fear of bodily in-
4 jury or physical harm.

5 (D) Subjecting another person to false im-
6 prisonment or kidnaping.

7 (E) Attempting to cause or causing dam-
8 age to property so as to intimidate or attempt
9 to control the behavior of another person.

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

19 (3) INSURED.—The term “insured” means a
20 party named on a policy, certificate, or health ben-
21 efit plan, including an individual, corporation, part-
22 nership, association, unincorporated organization, or
23 any similar entity, as the person with legal rights to
24 the benefits provided by the policy, certificate, or
25 health benefit plan. For group insurance, the term

1 includes a person who is a beneficiary covered by a
2 group policy, certificate, or health benefit plan. For
3 life insurance, the term refers to the person whose
4 life is covered under an insurance policy.

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

17 (5) POLICY.—The term “policy” means a con-
18 tract of insurance, certificate, indemnity, suretyship,
19 or annuity issued, proposed for issuance, or intended
20 for issuance by an insurer, including endorsements
21 or riders to an insurance policy or contract.

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

24 (A) a person against whom an act of abuse
25 has been directed;

1 (B) a person who has prior or current in-
2 juries, illnesses, or disorders that resulted from
3 abuse; or

4 (C) a person who seeks, may have sought,
5 or had reason to seek medical or psychological
6 treatment for abuse, protection, court-ordered
7 protection, or shelter from abuse.

8 **SEC. 503. DISCRIMINATORY ACTS PROHIBITED.**

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

16 (1) Denying, refusing to issue, renew, or re-
17 issue, or canceling or otherwise terminating an in-
18 surance policy or health benefit plan.

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

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

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

5 (c) PROHIBITION ON TERMINATION.—

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

17 (2) PAYMENT OF PREMIUMS.—Nothing in para-
18 graph (1) shall be construed to prohibit the insurer
19 from requiring that the subject of abuse pay the full
20 premium for the subject's coverage under the health
21 plan if the requirements are applied to all insured of
22 the health carrier.

23 (3) EXCEPTION.—An insurer may terminate
24 group coverage to which this subsection applies after
25 the continuation coverage period required by this

1 subsection has been in force for 18 months if it of-
2 fers conversion to an equivalent individual plan.

3 (4) CONTINUATION COVERAGE.—The continu-
4 ation of health coverage required by this subsection
5 shall be satisfied by any extension of coverage under
6 part 6 of subtitle B of title I of the Employee Re-
7 tirement Income Security Act of 1974 (29 U.S.C.
8 1161 et seq.) or section 4980B of the Internal Rev-
9 enue Code of 1986 provided to a subject of abuse
10 and is not intended to be in addition to any exten-
11 sion of coverage otherwise provided for under such
12 part 6 or section 4980B.

13 (d) USE OF INFORMATION.—

14 (1) LIMITATION.—

15 (A) IN GENERAL.—In order to protect the
16 safety and privacy of subjects of abuse, no per-
17 son employed by or contracting with an insurer
18 or health benefit plan may (without the consent
19 of the subject)—

20 (i) use, disclose, or transfer informa-
21 tion relating to abuse status, acts of abuse,
22 abuse-related medical conditions, or the
23 applicant's or insured's status as a family
24 member, employer, associate, or person in
25 a relationship with a subject of abuse for

1 any purpose unrelated to the direct provi-
2 sion of health care services unless such
3 use, disclosure, or transfer is required by
4 an order of an entity with authority to reg-
5 ulate insurance or an order of a court of
6 competent jurisdiction; or

7 (ii) disclose or transfer information
8 relating to an applicant's or insured's mail-
9 ing address or telephone number or the
10 mailing address and telephone number of a
11 shelter for subjects of abuse, unless such
12 disclosure or transfer—

13 (I) is required in order to provide
14 insurance coverage; and

15 (II) does not have the potential
16 to endanger the safety of a subject of
17 abuse.

18 (B) RULE OF CONSTRUCTION.—Nothing in
19 this paragraph may be construed to limit or
20 preclude a subject of abuse from obtaining the
21 subject's own insurance records from an in-
22 surer.

23 (2) AUTHORITY OF SUBJECT OF ABUSE.—A
24 subject of abuse, at the absolute discretion of the
25 subject of abuse, may provide evidence of abuse to

1 an insurer for the limited purpose of facilitating
2 treatment of an abuse-related condition or dem-
3 onstrating that a condition is abuse-related. Nothing
4 in this paragraph shall be construed as authorizing
5 an insurer or health carrier to disregard such pro-
6 vided evidence.

7 **SEC. 504. INSURANCE PROTOCOLS FOR SUBJECTS OF**
8 **ABUSE.**

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

16 **SEC. 505. REASONS FOR ADVERSE ACTIONS.**

17 An insurer that takes an action that adversely affects
18 a subject of abuse, shall advise the applicant or insured
19 who is the subject of abuse of the specific reasons for the
20 action in writing. For purposes of this section, reference
21 to general underwriting practices or guidelines shall not
22 constitute a specific reason.

23 **SEC. 506. LIFE INSURANCE.**

24 Nothing in this title shall be construed to prohibit
25 a life insurer from declining to issue a life insurance policy

1 if the applicant or prospective owner of the policy is or
2 would be designated as a beneficiary of the policy, and
3 if—

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

6 (2) the applicant or prospective owner of the
7 policy is known, on the basis of police or court
8 records, to have committed an act of abuse against
9 the proposed insured.

10 **SEC. 507. SUBROGATION WITHOUT CONSENT PROHIBITED.**

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

13 **SEC. 508. ENFORCEMENT.**

14 (a) FEDERAL TRADE COMMISSION.—Any act or
15 practice prohibited by this title shall be treated as an un-
16 fair and deceptive act or practice pursuant to section 5
17 of the Federal Trade Commission Act (15 U.S.C. 45) and
18 the Federal Trade Commission shall enforce this title in
19 the same manner, by the same means, and with the same
20 jurisdiction, powers, and duties as though all applicable
21 terms and provisions of the Federal Trade Commission
22 Act were incorporated into and made a part of this title,
23 including issuing a cease and desist order granting any
24 individual relief warranted under the circumstances, in-

1 cluding temporary, preliminary, and permanent injunctive
2 relief and compensatory damages.

3 (b) PRIVATE CAUSE OF ACTION.—

4 (1) IN GENERAL.—An applicant or insured who
5 believes that the applicant or insured has been ad-
6 versely affected by an act or practice of an insurer
7 in violation of this title may maintain an action
8 against the insurer in a Federal or State court of
9 original jurisdiction.

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

18 (3) STATUTORY DAMAGES.—With respect to
19 compensatory damages in an action described in
20 paragraph (1), the aggrieved individual may elect, at
21 any time prior to the rendering of final judgment, to
22 recover in lieu of actual damages, an award of statu-
23 tory damages in the amount of \$5,000 for each vio-
24 lation.

1 **SEC. 509. EFFECTIVE DATE.**

2 This title shall apply with respect to any action taken
3 after the date of enactment of this Act.

4 **TITLE VI—SEVERABILITY**

5 **SEC. 601. SEVERABILITY.**

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

○