

7 Women - Legislation

Violence
vs
Wanted -
fact

AMENDMENT NO. _____

Calendar No. _____

Purpose: To incorporate in the bill provisions relating to representation with non-Corporation funds of aliens subject to domestic violence.

IN THE SENATE OF THE UNITED STATES—104th Cong., 2d Sess.

S. 1221

To authorize appropriations for the Legal Services Corporation Act and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by

Viz:

- 1 On page 16, line 22, strike "or".
- 2 On page 17, line 6, strike the first period and all that
- 3 follows and insert ", or".
- 4 On page 17, between lines 6 and 7, insert the follow-
- 5 ing:
- 6 "(C) using funds received from a source other
- 7 than the Corporation to provide legal assistance to—

1 “(i) an alien who has been battered or sub-
2 jected to extreme cruelty in the United States—

3 “(I) by a spouse or parent of the
4 alien; or

5 “(II) by an individual who is a mem-
6 ber of the family of the spouse or parent
7 and who is residing in the same household
8 as the alien, in a case in which the spouse
9 or parent, respectively, consented or acqui-
10 esced to such battery or extreme cruelty;
11 or

12 “(ii) an alien whose child has been bat-
13 tered or subjected to extreme cruelty in the
14 United States—

15 “(I) by a spouse or parent of the
16 alien, in a case in which the alien did not
17 actively participate in the battery or ex-
18 treme cruelty; or

19 “(II) by an individual who is a mem-
20 ber of the family of the spouse or parent
21 and who is residing in the same household
22 as the alien, in a case in which the spouse
23 or parent, respectively, consented or acqui-
24 esced to such battery or extreme cruelty

3

1 and the alien did not actively participate in
2 the battery or extreme cruelty.

File

II

104TH CONGRESS
2D SESSION

S. 1632

To prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 1996

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, 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. DEFINITIONS.

4 Section 921(a) of title 18, United States Code, is
5 amended by adding at the end the following new para-
6 graph:

7 "(33) The term 'crime involving domestic vio-
8 lence' means a felony or misdemeanor crime of vio-
9 lence, regardless of length, term, or manner of pun-
10 ishment, committed by a current or former spouse,

1 parent, or guardian of the victim, by a person with
2 whom the victim shares a child in common, by a per-
3 son who is cohabitating with or has cohabitated with
4 the victim as a spouse, parent, or guardian, or by
5 a person similarly situated to a spouse, parent, or
6 guardian of the victim under the domestic or family
7 violence laws of the jurisdiction in which such felony
8 or misdemeanor was committed.”.

9 SEC. 2. UNLAWFUL ACTS.

10 Section 922 of title 18, United States Code, is
11 amended—

~~12 (1) in subsection (d)—~~

13 (A) by striking “or” at the end of para-
14 graph (7);

15 (B) by striking the period at the end of
16 paragraph (8) and inserting “; or”; and

17 (C) by inserting after paragraph (8) the
18 following new paragraph:

19 “(9) is under indictment for, or has been con-
20 victed in any court of, any crime involving domestic
21 violence.”; and

22 (2) in subsection (g)—

23 (A) by striking “or” at the end of para-
24 graph (7);

3

1 (B) in paragraph (8), by striking the
2 comma and inserting “; or”; and

3 (C) by inserting after paragraph (8) the
4 following new paragraph:

5 “(9) who is under indictment for, or has been
6 convicted in any court, of any crime involving do-
7 mestic violence.”.

8 **SEC. 3. RULES AND REGULATIONS.**

9 Section 926(a) of title 18, United States Code, is
10 amended—

11 (1) by striking “and” at the end of paragraph
12 (2);

13 (2) by striking the period at the end of para-
14 graph (3) and inserting “; and”; and

15 (3) by inserting after paragraph (3) the follow-
16 ing new paragraph:

17 “(4) regulations providing for the effective re-
18 ceipt and secure storage of firearms relinquished by
19 or seized from persons described in subsection (d)(9)
20 or (g)(9) of section 922.”.

21 **SEC. 4. RESTORATION OF CIVIL RIGHTS AFTER CONVIC-**
22 **TION.**

23 Section 921(a)(20) of title 18, United States Code,
24 is amended by striking the period at the end and inserting
25 the following: “, or such restoration of civil rights occurs

1 following conviction of a crime of domestic violence (as de-
2 fined in section 921(a)(33)). A conviction of a crime of
3 domestic violence shall not be considered to be a conviction
4 for purposes of this chapter if the conviction is reversed
5 or set aside based on a determination that the conviction
6 is invalid, or if the person has been pardoned, unless the
7 authority that grants the pardon expressly states that the
8 person may not ship, transport, possess, or receive fire-
9 arms.”.

10 SEC. 5. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARM
11 PROHIBITIONS.

~~12 (a) IN GENERAL. Section 925(c) of title 18, United~~

13 States Code, is amended—

14 (1) in the first undesignated sentence, by in-
15 serting “(other than a person convicted of a crime
16 of domestic violence as defined in section
17 921(a)(33))” before “who is prohibited”; and

18 (2) in the fourth undesignated sentence—

19 (A) by inserting “person (other than a per-
20 son convicted of a crime of domestic violence as
21 defined in section 921(a)(33)) who is a” before
22 “licensed importer”; and

23 (B) by striking “his” and inserting “the
24 person’s”.

5

1 (b) APPLICABILITY.—The amendments made by sub-
2 section (a) shall apply to—

3 (1) applications for administrative relief and ac-
4 tions for judicial review that are pending on the date
5 of enactment of this Act; and

6 (2) applications for administrative relief filed,
7 and actions for judicial review brought, after the
8 date of enactment of this Act.

○

file *Violence against Women Act* H.L.C.

(Original signature of Member)

104TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY (for herself and Mrs. MORELLA) introduced the following bill;
which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide
a credit for employers for certain costs incurred to com-
bat violence against women.

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.**

4 This Act may be cited as the "Workplace Violence
5 Prevention Tax Credit Act of 1996".

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) there is an increasing awareness by the
9 business community and the country as a whole re-

1 garding the serious problem of workplace violence
2 against women;

3 (2) there is an increased recognition that work-
4 place violence against women has severe implications
5 for the health, safety, and economic well-being of
6 women, as well as the efficiency and profitability of
7 American companies;

8 (3) recent crime statistics clearly show the seri-
9 ous threat of workplace violence against women;

10 (4) homicide is the leading cause of death for
11 ~~women on the job, and husbands, boyfriends, and~~
12 ex-partners commit 15 percent of all workplace
13 homicides against women;

14 (5) an estimated 8 percent of all rapes occur
15 while victims are working or on duty, at an average
16 annual number of 13,000 workplace rapes each year;

17 (6) husbands and boyfriends commit 13,000
18 acts of violence against women in the workplace
19 every year;

20 (7) women are more likely than men to be at-
21 tacked at work by someone known to them, and 5
22 percent of women victimized at work are attacked by
23 a husband, boyfriend, or ex-partner;

24 (8) surveys of business executives and corporate
25 security directors also underscore the heavy toll that

1 workplace violence takes on American women and
2 American businesses;

3 (9) 49 percent of senior executives recently sur-
4 veyed said domestic violence has a harmful effect on
5 their company's productivity, 47 percent said spous-
6 al abuse negatively impacts attendance, and 44 per-
7 cent said domestic violence increases health care
8 costs;

9 (10) 94 percent of corporate security and safety
10 directors at companies nationwide rank domestic vio-
11 ~~lence as a high-risk security problem;~~

12 (11) the public and private sectors—including
13 the legal, medical, social services, business, and reli-
14 gious communities—must come together to combat
15 violence against women in the workplace; and

16 (12) the Congress, too, must play a role in en-
17 couraging companies to promulgate workplace edu-
18 cation and safety programs to combat violence
19 against women.

20 **SEC. 3. CREDIT FOR COSTS TO EMPLOYERS OF IMPLE-**
21 **MENTING WORKPLACE SAFETY PROGRAMS**
22 **TO COMBAT VIOLENCE AGAINST WOMEN.**

23 (a) **IN GENERAL.**—Subpart D of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 "SEC. 45C. WORKPLACE SAFETY PROGRAM CREDIT.

4 "(a) IN GENERAL.—For purposes of section 38, the
5 workplace safety program credit determined under this
6 section for the taxable year is, for any employer, an
7 amount equal to 40 percent of the violence against women
8 safety and education costs paid or incurred by such em-
9 ployer during the taxable year.

10 "(b) DEFINITIONS.—For purposes of this section—

11 ~~"(1) VIOLENCE AGAINST WOMEN SAFETY AND~~
12 ~~EDUCATION COST.—~~

13 "(A) IN GENERAL.—The term 'violence
14 against women safety and education cost'
15 means any cost certified by the Attorney Gen-
16 eral to the Secretary as being for the purpose
17 of—

18 "(i) ensuring the safety of employees
19 from violent crimes against women,

20 "(ii) providing counseling to employ-
21 ees with respect to violent crimes against
22 women,

23 "(iii) providing legal or medical serv-
24 ices to employees subjected to, or at risk
25 from, violent crimes against women,

1 “(iv) educating employees about the
2 issue of violent crimes against women, or

3 “(v) implementing human resource or
4 personnel policies initiated to protect em-
5 ployees from violent crimes against women.

6 “(B) TYPES OF COSTS.—Such term in-
7 cludes costs certified by the Attorney General to
8 the Secretary as being for the purpose of—

9 “(i) the hiring of new security person-
10 nel in order to address violent crimes
11 against women,

12 “(ii) the creation of buddy systems or
13 escort systems for walking employees to
14 parking lots, parked cars, subway stations,
15 or bus stops, in order to address violent
16 crimes against women,

17 “(iii) the purchase or installation of
18 new security equipment, including surveil-
19 lance equipment, lighting fixtures, cardkey
20 access systems, and identification systems,
21 in order to address violent crimes against
22 women,

23 “(iv) the establishment of a hotline or
24 a counseling service about violent crimes

1 against women, for the use of individual
2 employees,

3 “(v) the retention of an attorney to
4 provide legal services to employees seeking
5 restraining orders or other legal recourse
6 from violent crimes against women,

7 “(vi) the establishment of medical
8 services addressing the medical needs of
9 employees who are victims of violent crimes
10 against women,

11 ~~“(vii) the retention of a financial ex-~~
12 pert or an accountant to provide financial
13 counseling to employees seeking to escape
14 from violent crimes against women,

15 “(viii) the establishment of an edu-
16 cation program for employees, consisting of
17 seminars or training sessions about violent
18 crimes against women,

19 “(ix) studies of the cost, impact, or
20 extent of violent crimes against women at
21 the employer's place of business, if such
22 studies are made available to the public
23 and protect the identity of employees in-
24 cluded in the study,

1 “(x) the publication of a regularly dis-
2 seminated newsletter or other regularly
3 disseminated educational materials about
4 violent crimes against women,

5 “(xi) the implementation of leave poli-
6 cies for the purpose of allowing victims of
7 violent crimes against women to pursue
8 legal redress against assailants, including
9 leave from work to attend meetings with
10 attorneys, to give evidentiary statements or
11 depositions, and to attend hearings or
12 trials in court,

13 “(xii) the implementation of flexible
14 work policies for the purpose of allowing
15 employees who are victims of violent crimes
16 against women, or employees at risk with
17 respect to such crimes, to avoid assailants,
18 or

19 “(xiii) the implementation of transfer
20 policies for the purpose of allowing employ-
21 ees subjected to violent crimes against
22 women to change office locations within
23 the company in order to avoid assailants,
24 including payment of costs for the transfer
25 and relocation of an employee to another

1 city, county, State, or country for the pur-
2 pose of maintaining the employee's safety
3 from violent crimes against women.

4 "(C) NOTIFICATION OF POSSIBLE TAX
5 CONSEQUENCES.—In no event shall any cost for
6 goods or services which may be included in the
7 income of any employee receiving or benefiting
8 from such goods or services be treated as a vio-
9 lence against women safety and education cost
10 unless the employer notifies the employee in
11 ~~writing of the possibility of such inclusion.~~

12 "(2) VIOLENT CRIMES AGAINST WOMEN.—

13 "(A) IN GENERAL.—The term 'violent
14 crimes against women' includes sexual assault
15 and domestic violence.

16 "(B) DOMESTIC VIOLENCE.—The term
17 'domestic violence' includes felony or mis-
18 demeanor crimes of violence committed by—

19 "(i) a current or former spouse of the
20 victim,

21 "(ii) a person with whom the victim
22 shares a child in common,

23 "(iii) a person who is cohabitating
24 with or has cohabitated with the victim as
25 a spouse,

1 “(iv) a person similarly situated to a
2 spouse of the victim under the domestic vi-
3 olence or family laws of the jurisdiction in
4 which the employee resides or the employer
5 is located, or

6 “(v) any other adult person against a
7 victim who is protected from the person’s
8 acts under the domestic or family violence
9 laws of the jurisdiction in which the em-
10 ployee resides or the employer is located.

11 “(3) EMPLOYEE AND EMPLOYER.”

12 “(A) IN GENERAL.—The term ‘employee’
13 includes any employee of the employer or of any
14 related person, and any spouse or dependent of
15 such an employee.

16 “(B) PARTNERS AND PARTNERSHIPS.—
17 The term ‘employee’ includes a partner and the
18 term ‘employer’ includes a partnership.

19 “(C) RELATED PERSONS.—Persons shall
20 be treated as related to each other if such per-
21 sons are treated as a single employer under
22 subsection (a) or (b) of section 52.

23 “(c) COORDINATION WITH OTHER PROVISIONS.—No
24 credit or deduction shall be allowed under any other provi-

1 sion of this title for any amount for which a credit is al-
2 lowed under this section."

3 (b) CARRYFORWARD, CARRYBACK, AND DEDUCTION
4 FOR UNUSED CREDITS.--

5 (1) CARRYFORWARD AND CARRYBACK.—Sub-
6 section (a) of section 38 of such Code (relating to
7 general business credit) is amended by striking
8 "plus" at the end of paragraph (10), by striking the
9 period at the end of paragraph (11) and inserting "
10 plus", and by adding at the end the following new
11 paragraph:

12 "(12) the workplace safety program credit de-
13 termined under section 45C."

14 (2) TRANSITIONAL RULE FOR CARRYBACKS.—
15 Subsection (d) of section 39 of such Code (relating
16 to transitional rules) is amended by adding at the
17 end the following new paragraph:

18 "(7) NO CARRYBACK OF SECTION 45C CREDIT
19 BEFORE EFFECTIVE DATE.—No portion of the un-
20 used business credit for any taxable year which is
21 attributable to the workplace safety program credit
22 determined under section 45C may be carried back
23 to a taxable year beginning on or before the date of
24 the enactment of section 45C."

1 (3) DEDUCTION FOR UNUSED CREDITS.—Sub-
2 section (c) of section 196 of such Code (relating to
3 deduction for certain unused business credits) is
4 amended by striking “and” at the end of paragraph
5 (6), by striking the period at the end of paragraph
6 (7) and inserting “, and”, and by adding at the end
7 the following new paragraph:

8 “(8) the workplace safety program credit deter-
9 mined under section 45C.”

10 (c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—

11 ~~The allowance of a credit under section 45C of the Inter-~~
12 ~~nal Revenue Code of 1986 (as added by this Act) shall~~
13 not absolve employers of their responsibilities under any
14 other law and shall not be construed as a defense to any
15 legal action (other than legal action by the Secretary of
16 the Treasury under such Code).

17 (d) CLERICAL AMENDMENT.—The table of sections
18 for subpart D of part IV of subchapter A of chapter 1
19 of such Code is amended by adding at the end the follow-
20 ing new item:

“Sec. 45C. Workplace safety program credit.”

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 the date of the enactment of this Act.

*file*104TH CONGRESS
2D SESSION**S. CON. RES.** _____

IN THE SENATE OF THE UNITED STATES

Mr. WELLSTONE submitted the following concurrent resolution; which was

CONCURRENT RESOLUTION

To express the sense of the Congress that any welfare reform legislation enacted by the Congress should include provisions addressing domestic violence.

Whereas, in enacting the Violence Against Women Act, the Congress recognized the epidemic of violence that affects all aspects of women's lives;

Whereas violence against women is the leading cause of physical injury to women, and the Department of Justice estimates that every year more than 1,000,000 violent crimes against women, including assault, rape, and murder, are committed by intimate partners of the women;

Whereas the American Psychological Association has reported that violence against women is usually witnessed by the children of the direct victims, and that such child witnesses suffer severe psychological, cognitive, and physical

damage, and studies have shown that children residing in battered mothers' homes are 15 times more likely to be physically abused or neglected, and male children growing in such homes are 3 times more likely to be violent with their female partners when they reach adulthood;

Whereas violence against women dramatically affects women's workforce participation, insofar as $\frac{1}{4}$ of battered women surveyed reported that they had lost a job due, at least in part, to the effects of domestic violence, and that over $\frac{1}{2}$ of battered women reported that they had been harassed by their abuser at work;

Whereas violence against women is often exacerbated as women seek to gain economic independence, and often increases when women attend school or training programs, and batterers often prevent women from attending such programs, and often sabotage their efforts at self-improvement;

Whereas numerous studies have shown that at least 60 percent of battered women suffer from some or all of the following symptoms: terrifying flashbacks, sleep disorders, inability to concentrate, and various forms of disassociation, all of which can impair a victim's ability to obtain and retain employment;

Whereas several recent studies indicate that over 50 percent of women in welfare-to-work programs have been or currently are victims of domestic violence, and a study by the State of Washington indicates that over 50 percent of recipients of Aid to Families with Dependent Children (AFDC) in that State have been so victimized;

Whereas the availability of economic support is a critical factor in a woman's ability to leave abusive situations that

threaten themselves and their children, and over 1/2 of battered women surveyed reported that they stayed with their batterers because they lacked resources to help themselves and their children;

Whereas proposals to restructure the AFDC program may impact the availability of the economic support and the safety net necessary to enable poor women to flee abuse without risking homelessness and starvation for their families; and

Whereas proposals to restructure the AFDC program by imposing time limits and increasing emphasis on work and job training should be evaluated in light of data demonstrating the extent to which domestic violence affects women's participation in such programs, and in light of the Congress' commitment to seriously address the issue of violence against women as evidenced by the enactment of the Violence Against Women Act: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring), That—*

3 (1) when the Congress considers proposed wel-
4 fare legislation, it should seriously evaluate whether
5 such welfare measure would exacerbate violence
6 against women, make it more difficult for women
7 and children to escape domestic violence, or would
8 unfairly penalize women and children victimized by
9 or at risk of violence;

10 (2) any welfare legislation enacted by the Con-
11 gress should require that any welfare-to-work, edu-

1 cation, or job placement program implemented by
2 the States should take domestic violence into ac-
3 count, by providing, among other things, mecha-
4 nisms for—

5 (A) screening and identifying recipients
6 with a history of domestic violence;

7 — (B) referring such recipients to counseling
8 and supportive services;

9 — (C) tolling time limits for recipients victim-
10 ized by domestic violence; and

11 (D) waiving, pursuant to a determination
12 of good cause, other program requirements such
13 as residency requirements, child support co-
14 operation requirements, and family cap provi-
15 sions, in cases where compliance with such re-
16 quirements would make it more difficult for the
17 recipients to escape domestic violence or un-
18 fairly penalize recipients victimized by or at risk
19 of further violence;

20 (3) any welfare legislation enacted by the Con-
21 gress should include a provision requiring that the
22 Comptroller General should develop and implement a
23 comprehensive study of the incidence and effect of
24 domestic violence on AFDC recipients, including a
25 study of the extent to which domestic violence both

1 precipitates and prolongs women's and children's
2 poverty and the need for AFDC; and

3 (4) any welfare reform legislation adopted by
4 the States that contains a welfare-to-work, edu-
5 cation, or job placement program should take do-
6 mestic violence into account, by providing, among
7 other things, mechanisms for—

8 (A) screening and identifying recipients
9 with a history of domestic violence;

10 (B) referring such recipients to counseling
11 and supportive services;

12 (C) tolling time limits for recipients victim-
13 ized by domestic violence; and

14 (D) waiving other program requirements,
15 pursuant to a determination of good cause,
16 such as residency requirements, child support
17 cooperation requirements, and family cap provi-
18 sions, in cases where compliance with such re-
19 quirements would make it more difficult for the
20 recipients and their children to escape domestic
21 violence or unfairly penalize recipients victim-
22 ized by or at risk of further violence.

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H.L.C.

[DISCUSSION DRAFT]

MAY 10, 1996

104TH CONGRESS
2D SESSION**H. R. _____**

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide private remedies for certain instances of sexual
harassment, and to provide additional funding for the
Equal Employment Opportunity Commission.

- 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.**

- 4 This Act may be cited as the "~~_____~~
5 Sexual Harassment ^{Prevention} Act of 1996".

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H.L.C.

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1 SEC. 2. CIVIL ACTION.

2 (a) GENERALLY.—Whoever (including a govern-
3 mental entity), in or affecting interstate or foreign com-
4 merce—

5 (1) engages in any sexual harassment; or

6 (2) retaliates against any person for opposing
7 sexual harassment or filing a complaint, or otherwise
8 participating in any manner, in a civil action under
9 paragraph (1);

10 shall be liable to the person injured by that harassment
11 or retaliation for any appropriate relief, which may include

12 money damages. In a civil action under this section, the
13 court may award a prevailing plaintiff a reasonable attor-
14 neys' fee and other litigation expenses (including expert
15 witness fees) as a part of the costs.

16 (b) WHAT CONSTITUTES SEXUAL HARASSMENT.—

17 (1) GENERALLY.—As used in this section, the
18 term "sexual harassment" means conduct described
19 in paragraph (2) in a relationship described in para-
20 graph (3).

21 (2) CONDUCT.—The conduct referred to in
22 paragraph (1) is an unwelcome sexual advance, un-
23 welcome request for sexual favors, or other unwel-
24 come conduct of a sexual nature where—

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H.L.C.

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1 (A) submission to such conduct is either
2 explicitly or implicitly a term or condition of the
3 relationship described in paragraph (3);

4 (B) submission to or rejection of such con-
5 duct is the basis for decisions or actions regard-
6 ing the person who submitted to or rejected
7 that conduct; or

8 (C) such conduct has the purpose or effect
9 of unreasonably interfering with the relation-
10 ship described in paragraph (3) or creates an

11 ~~intimidating, hostile, or offensive environment~~
12 within that relationship.

13 (3) RELATIONSHIP.—The relationship referred
14 to in paragraphs (1) and (2) is a relationship—

15 (A) between a patient and a physician,
16 psychotherapist, or dentist;

17 (B) between a client and an attorney, mar-
18 riage, family, or child counselor, social worker,
19 or accountant;

20 (C) between a beneficiary and an executor,
21 trustee, or administrator of a trust or estate;

22 (D) between an employee and an employer,
23 if the employer has fewer than 15 employees for
24 each working day in each of 33 or more cal-

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H.L.C.

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1 endar weeks in the current and in the preceding
2 calendar year; or

3 (E) between the parties to a contract or
4 between persons negotiating a contract or seek-
5 ing to enforce claimed rights under a contract.

6 (c) EFFECTIVE DATE.—This Act shall take effect
7 180 days after the date of the enactment of this Act.

8 **SEC. 3. ADDITIONAL FUNDING FOR THE EQUAL EMPLOY-**
9 **MENT OPPORTUNITY COMMISSION.**

10 In addition to any other sums authorized to be appro-
11 ~~priated to the Equal Employment Opportunity Commis-~~
12 sion, there are authorized to be appropriated to such Com-
13 mission \$268,000,000 for fiscal year 1997, and such sums
14 thereafter as may be necessary.

Draft 6/17

The Battered Women's Employment Protection Act

Section 1. Findings and Purposes

(a) Findings

Congress finds that--

- (1) Violence against women is the leading cause of physical injury to women, and the Department of Justice estimates that intimate partners commit more than one million violent crimes against women every year;
- (2) The Bureau of Labor Statistics predicts that women will account for two-thirds of all new entrants into the workforce between now and the year 2000;
- (3) Violence against women dramatically affects women's workforce participation, insofar as one-quarter of battered women surveyed had lost a job due at least in part to the effects of domestic violence, and over half of battered women had been harassed by their abuser at work;
- (4) The availability of economic support is a critical factor in women's ability to leave abusive ~~situations that threaten themselves and their children, and over half of battered women surveyed~~ stayed with their batterers because they lacked resources to support themselves and their children;
- (5) A survey of state unemployment insurance agency directors by the Federal Advisory Council on Unemployment Compensation found that in 31 states battered women who leave work as a result of domestic violence do not qualify for unemployment benefits, in 9 states the determination often varies depending on the facts and circumstances, and in only 13 states are they usually considered qualified for unemployment benefits;
- (6) A study by the New York State Department of Labor found that domestic violence victims frequently hide their victimization and do not disclose the domestic violence as a reason for their problems with the job or need to separate from employment, when filing for unemployment insurance benefits;
- (7) The same New York State study found that 75% of employed victims of domestic violence must communicate with doctors, lawyers, shelters, counselors, family and friends from their workplaces because they cannot do so at home;
- (8) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity; forty-seven percent said domestic violence negatively affects attendance; and forty-four percent said domestic violence increases health care costs; and the Bureau of National Affairs estimates that domestic violence costs employers between three and five million dollars per year; and
- (9) Existing federal and state legislation fails expressly to authorize battered women to take leave

from work to seek legal assistance and redress, counseling, or assistance with safety planning and activities.

(b) Purposes

Pursuant to the affirmative power of Congress to enact this Act under section 5 of the Fourteenth Amendment to the Constitution, as well as under section 3 of Article I of the Constitution, the purposes of this Act are—

(1) to promote the national interest in reducing domestic violence by enabling victims of domestic violence to maintain the financial independence necessary to leave abusive situations, to achieve safety and minimize the physical and emotional injuries from domestic violence, and to reduce the devastating economic consequences of domestic violence, by:

(a) providing unemployment insurance for victims of domestic violence who are forced to leave their employment as a result of domestic violence;

(b) entitling employed victims of domestic violence to take reasonable leave to seek medical help, legal assistance, counseling and/or safety planning and assistance without penalty from their employer;

(2) to promote the purposes of the Fourteenth Amendment by protecting the civil and economic rights of victims of domestic violence and by furthering the equal opportunity of women and men to employment and economic self-sufficiency;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, health care costs, and employer costs from domestic violence; and

(4) to accomplish the purposes described in paragraphs (1), (2) and (3) in a manner that accommodates the legitimate interests of employers.

Section 2. Unemployment Compensation

(1) In General -- The Federal Unemployment Tax Act, 26 U.S.C. Sec. 3304 (19--) is hereby amended by substituting a new paragraph (19), with existing paragraph (19) now re-numbered as paragraph (20), as follows:

“(19) compensation shall be provided where an individual is separated from employment due to circumstances directly resulting from the individual's experience of domestic violence.

(A) For the purpose of determining whether an employee's separation from employment is 'directly resulting' from the individual's experience of domestic

violence, it shall be sufficient if the separation from employment resulted from:

- (i) the employee's reasonable fear of future domestic violence at or en route to or from her place of employment;
- (ii) the employee's wish to relocate to another geographic area in order to avoid future domestic violence against her or her family;
- (iii) the employee's need to recover from traumatic stress resulting from her experience of domestic violence;
- (iv) the employer's denial of the employee's request for temporary leave from employment to deal with domestic violence and its aftermath, as provided in Section 3 below; or
- (v) any other respect in which domestic violence causes the employee to reasonably believe that termination of employment is necessary for the future safety of herself or her family.

(B) Where state law requires the employee to have made reasonable efforts to retain employment as a condition for receiving unemployment compensation, it shall be sufficient that the employee:

- (i) sought protection from or assistance in responding to domestic violence, including but not limited to calling the police, or seeking legal, social work, medical, clergy or other assistance;
- (ii) sought safety, including refuge in a shelter or temporary or permanent relocation, whether or not she actually obtained such refuge or accomplished such relocation; or
- (iii) reasonably believed that options such as a leave, transfer, or alternative work schedule would not be sufficient to guarantee her or her family's safety.

(C) Where state law requires the employee to actively search for employment after separation from employment as a condition for receiving unemployment compensation, such requirement shall be deemed to be met where the employee is temporarily unable to actively search for employment because she is engaged in seeking safety or relief for herself or her family from domestic violence, including:

- (i) going into hiding or relocating or attempting to do so, including activities associated with such relocation or hiding, such as seeking to obtain sufficient shelter, food, schooling for children, or other necessities of life for her or her family;
- (ii) actively pursuing legal protection or remedies, including meeting with the police, going to court to make inquiries or file papers, meeting with attorneys or attending court proceedings; or
- (iii) participating in psychological, social, or religious counseling or support activities to assist herself in ending domestic violence.

(2) In general -- The Social Security Act, 42 U.S.C. Sec. 503 (a) (1988) is hereby amended to insert a new subparagraph (a)(4), as follows:

"(4) Such methods of administration as will ensure that claims reviewers and hearing personnel are adequately trained in the nature and dynamics of domestic violence and in methods of ascertaining information about possible experiences of domestic violence, so that employment separations stemming from domestic violence are reliably screened, identified and adjudicated."

(3) In general -- The Federal Unemployment Tax Act, 26 U.S.C. 3306 is hereby amended to insert two new subsections, (u) and (v), as follows:

"(u) 'Domestic violence' includes 'abuse' committed against an employee or a family member of the employee by --

- (i) a current or former spouse of the employee;
- (ii) a person with whom the employee shares a child in common;
- (iii) a person who is cohabitating with or has cohabitated with the employee as a romantic or intimate partner; or
- (iv) a person from whom the employee would be eligible for protection under the domestic violence, protection order, or family laws of the jurisdiction in which the employee resides or the employer is located.

(v) The term "abuse" includes, but is not limited to--

- (i) physical acts resulting in, or threatening to result in, physical injury;
- (ii) sexual abuse, sexual activity involving a dependent child, or threats of or attempts at sexual abuse;
- (iii) mental abuse, including threats, intimidation, acts designed to induce terror, or restraints on liberty, and
- (iv) deprivation of medical care, housing, food or other necessities of life.

Section 3. Leave from Employment

(1) In General -- This Act further requires all employers subject to either the federal Family and Medical Leave Act, 29 U.S.C. Secs. 2601 et seq., any state law addressing family, medical, sick or other kind of leave from employment, or an employment benefits program or policy or collective bargaining agreement addressing family, medical, sick or other kind of leave from employment, to provide leave to employees seeking temporary absences from employment to deal with domestic violence and its aftermath, as follows:

(2) Existing Leave Useable for Domestic Violence

Where family, medical, sick or any other kind of leave from employment is available to employees pursuant to either the federal Family and Medical Leave Act, 29 U.S.C. Secs. 2601 et seq., any state

law, or an existing employment benefits program or plan or collective bargaining agreement, employees shall be entitled to use such leave for the purpose of dealing with domestic violence and its aftermath, as defined in subparagraph 4 below.

(3) Minimum Leave for Domestic Violence

(a) Any employee who is not entitled to leave from employment for the purpose of dealing with domestic violence and its aftermath pursuant to paragraph (2) above, or who has used up his or her available leave pursuant to paragraph (2) above, other than an employee who has taken 12 weeks of leave for the purpose of dealing with domestic violence and its aftermath, shall be entitled to take up to 10 days per year of unpaid leave without penalty, for that purpose.

(b) An employee may elect, or an employer may require the employee to substitute accrued paid leave for any part of the 10 days of unpaid leave provided under paragraph (3)(I) of this Section.

(4) The following activities constitute means of "dealing with domestic violence and its aftermath," which shall render an employee eligible for leave under this Act:

(a) experiencing domestic violence;

(b) seeking medical attention for injuries caused by domestic violence, except for "serious health conditions" where covered by the Family and Medical Leave Act, 29 U.S.C. Sec. 2601 et seq.;

(c) seeking legal assistance or remedies, including communicating with the police or an attorney, and/or participating in any legal proceeding related to domestic violence;

(d) attending support groups for victims of domestic violence;

(e) obtaining psychological counseling related to experiences of domestic violence;

(f) participating in safety planning and other actions to increase safety from future domestic violence, including temporary or permanent relocation; and

(g) any other activity necessitated by domestic violence which must be undertaken during hours of employment to avoid the risk of further domestic violence.

(5) Definitions

For purposes of this Section the term --

(a) "Employer" includes any person subject to either the federal Family and Medical Leave Act, 29 U.S.C. Sec. 2601 et seq., any state law addressing family, medical, sick or any other kind of leave from employment, or any employer granting family, medical, sick or other kind of leave from employment under an employment benefits program or policy or collective bargaining agreement in effect as of the effective date of this Act.

(b) "Employee" refers to any person eligible to receive leave pursuant to the federal Family and Medical Leave Act, 29 U.S.C. Sec. 2601 et seq., any state law addressing medical,

family, sick or other kind of leave from employment or an employment benefits program or policy or collective bargaining agreement in effect as of the effective date of this Act.

(c) Domestic violence has the meaning assigned to such term by Section 2(3) of this Act.

Section 4. Sufficiency of Proof

(1) In General -- In determining whether an employee meets the requirements set forth in Section 2, paragraph (1) and (3) and Section 3 paragraphs (2), (3) and (4), the employer or claim reviewer may require the employee to provide a statement along with either:

(a) documentation such as police or court records, or other documentation from a shelter worker, attorney, clergy, medical or other professional from whom the employee has sought assistance in dealing with domestic violence; or

(b) other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim, or physical evidence of domestic violence, such as photographs, torn or bloody clothes, etc.

Section 5. Effect on other laws and Employment Benefits

(1) More protective

Nothing in this Act or any amendment to this Act shall be construed to supersede any provision of any Federal, State or local law, collective bargaining agreement or other employment benefit program which provides greater unemployment compensation or leave benefits for employed victims of domestic violence than the rights established under this Act or any amendment to this Act.

(2) Less protective

The rights established for employees under this Act or any amendment made to this Act shall not be diminished by any collective bargaining agreement, any employment benefit program or plan, or any State or local law.

Section 6. Enforcement of Section 3, Leave from Employment

(1) Federal and Private Employers

(a) Public Enforcement

The powers, remedies and procedures set forth in 29 U.S.C. Sec. 2617 (b), (c), (d) and (e) shall be the powers, remedies and procedures provided under this Act for the public enforcement of any alleged violations of Section 3 of this Act against any federal or private employer.

(b) Private Enforcement

The remedies and procedures set forth in 29 U.S.C. Sec. 2617 (a) shall be the remedies and procedures pursuant to which an employee may initiate a legal action against a federal or private employer for alleged violations of Section 3 of this Act.

(2) State Employers

(a) Public Enforcement

The Secretary shall have the powers, remedies and procedures set forth in 29 U.S.C. Sec. 2617 (b), (c), (d) and (e) for the purpose of public enforcement of any alleged violations of Section 3 of this Act against any State employer.

(b) Qui Tam Actions

(i) An employee of a State employer may bring a civil action for a violation of Section 3 of this Act for the employee and for the United States government (a "Qui Tam" action). The action shall be brought in the name of the United States government. The action may be dismissed only if the court and the Secretary give written consent to the dismissal stating their reasons for consenting. The Qui Tam plaintiff may recover damages or injunctive relief to the same extent provided in paragraph (1)(b) above.

(ii) The right provided by paragraph (2)(b)(i) to bring a Qui Tam action shall terminate on the filing of a complaint by the Secretary in an action seeking damages or monetary relief on behalf of the affected employee under Paragraph (2)(a) of this Section, unless that action is dismissed without prejudice on motion of the Secretary.

(3) Employer Liability Under other Laws

Nothing in this Act shall be construed to limit the liability of a private or federal employer to an employee for harm suffered relating to the employee's experience of domestic violence pursuant to any other state or federal law or legal remedy.

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104TH CONGRESS
2D SESSION**S.** _____

IN THE SENATE OF THE UNITED STATES

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce and to allow employees to take parental involvement leave to participate in or attend ~~certain~~ *educational and extracurricular activities* ~~school or community activities~~ *their children's*, 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. COVERAGE OF EMPLOYEES.**

4 Paragraphs (2)(B)(ii) and (4)(A)(i) of section 101 of
5 the Family and Medical Leave Act of 1993 (29 U.S.C.
6 2611 (2)(B)(ii) and (4)(A)(i)) are amended by striking
7 "50" each place it appears and inserting "25".

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1 **SEC. 2. PARENTAL INVOLVEMENT LEAVE.**

2 (a) **LEAVE REQUIREMENT.**—Section 102(a) of the
3 Family and Medical Leave Act of 1993 (29 U.S.C.
4 2612(a)) is amended by adding at the end the following:

5 “(3) **ENTITLEMENT TO PARENTAL INVOLVE-**
6 **MENT LEAVE.**—

7 “(A) **IN GENERAL.**—Subject to section
8 103(f), an eligible employee shall be entitled to
9 a total of 4 hours of leave during any 30-day
10 period, and a total of 24 hours of leave during
11 ~~any 12-month period, in addition to leave avail-~~
12 ~~able under paragraph (1), to participate in or~~
13 ~~attend an activity that—~~

14 “(i) is sponsored by a school or com-
15 munity organization; and

16 “(ii) relates to a program of the
17 school or organization that is attended by
18 a son or daughter of the employee, *including foster*
19 *children.*

20 “(B) **DEFINITIONS.**—As used in this para-
graph:

21 “(i) **COMMUNITY ORGANIZATION.**—
22 The term ‘community organization’ means
23 a private nonprofit organization that is
24 representative of a community or a signifi-
25 cant segment of a community and provides
26 activities for individuals described in sub-

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1 paragraph (A) or (B) of section 101(12),
2 such as a scouting or sports organization.

3 “(ii) SCHOOL.—The term ‘school’
4 means an elementary school or secondary
5 school (as such terms are defined in sec-
6 tion 14101 of the Elementary and Second-
7 ary Education Act of 1965 (20 U.S.C.
8 8801)), a Head Start program assisted
9 under the Head Start Act (42 U.S.C. 9831
10 et seq.), and a child care facility licensed
11 ~~under State law.”~~

12 (b) SCHEDULE.—Section 102(b)(1) of such Act (29
13 U.S.C. 2612(b)(1)) is amended by inserting after the sec-
14 ond sentence the following: “Leave under subsection
15 (a)(3) may be taken intermittently *or on a reduced leave schedule.*”

16 (c) SUBSTITUTION OF PAID LEAVE.—Section
17 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is
18 amended by inserting before the period the following: “,
19 or for leave provided under subsection (a)(3) for any part
20 of the 24-hour period of such leave under such sub-
21 section”.

22 (d) NOTICE.—Section 102(e)(1) of such Act (29
23 U.S.C. 2612(e)(1)) is amended by adding at the end the
24 following: “In any case in which an employee requests
25 leave under subsection (a)(3), the employee shall provide

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1 the employer with not less than ~~3~~⁷ days' notice, before
2 the date the leave is to begin, of the employee's intention
3 to take leave under such subsection."

4 (e) CERTIFICATION.—Section 103 of such Act (29
5 U.S.C. 2613) is amended by adding at the end the follow-
6 ing:

7 "(f) CERTIFICATION FOR PARENTAL INVOLVEMENT
8 LEAVE.—An employer may require that a request for
9 leave under section 102(a)(3) be supported by a certifi-
10 cation issued at such time and in such manner as the Sec-
11 retary may by regulation prescribe."

12 **SEC. 3. PARENTAL INVOLVEMENT LEAVE FOR CIVIL SERV-**
13 **ANTS.**

14 (a) LEAVE REQUIREMENT.—Section 6382(a) of title
15 5, United States Code, is amended by adding at the end
16 the following:

17 "(3)(A) Subject to section 6383(f), an employee shall
18 be entitled to a total of 4 hours of leave during any 30-
19 day period, and a total of 24 hours of leave during any
20 12-month period, in addition to leave available under para-
21 graph (1), to participate in or attend an activity that—

22 "(i) is sponsored by a school or community or-
23 ganization; and

1 “(ii) relates to a program of the school or orga-
2 nization that is attended by a son or daughter of the
3 employee. *including foster children.*

4 “(B) As used in this paragraph:

5 “(i) The term ‘community organization’ means
6 a private nonprofit organization that is representa-
7 tive of a community or a significant segment of a
8 community and provides activities for individuals de-
9 scribed in subparagraph (A) or (B) of section
10 6381(6), such as a scouting or sports organization.

11 ~~“(ii) The term ‘school’ means an elementary~~
12 school or secondary school (as such terms are de-
13 fined in section 14101 of the Elementary and Sec-
14 ondary Education Act of 1965 (20 U.S.C. 8801)), a
15 Head Start program assisted under the Head Start
16 Act (42 U.S.C. 9831 et seq.), and a child care facil-
17 ity licensed under State law.”.

18 (b) SCHEDULE.—Section 6382(b)(1) of such title is
19 amended by inserting after the second sentence the follow-
20 ing: “Leave under subsection (a)(3) may be taken inter-
21 mittently. *or on a reduced leave schedule.*”

22 (c) SUBSTITUTION OF PAID LEAVE.—Section
23 6382(d) of such title is amended by inserting before “,
24 except” the following: “, or for leave provided under sub-
25 section (a)(3) any of the employee’s accrued or accumu-

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1 lated annual leave under subchapter I for any part of the
2 24-hour period of such leave under such subsection”.

3 (d) NOTICE.—Section 6382(c)(1) of such title is
4 amended by adding at the end the following: “In any case
5 in which an employee requests leave under subsection
6 (a)(3), the employee shall provide the employing agency
7 with not less than⁷ days’ notice, before the date the
8 leave is to begin, of the employee’s intention to take leave
9 under such subsection.”.

10 (e) CERTIFICATION.—Section 6383 of such title is
11 ~~amended by adding at the end the following:~~

12 “(f) An employing agency may require that a request
13 for leave under section 6382(a)(3) be supported by a cer-
14 tification issued at such time and in such manner as the
15 Office of Personnel Management may by regulation pre-
16 scribe.”.