This workshop was held at the 2019 Equal Justice Conference in Louisville, Kentucky.

Title:
Gender-Based Violence Federal Legislative Update

Presenters:
Rebecca Henry, American Bar Association, Washington, DC

We will review the current status and important (proposed) changes to the Violence Against Women Act, the Victims of Crime Act (assuming it is taken up before the session), and the Family Violence Prevention and Services Act. We will also review the newly passed POWER Act (Pro bono Work to Empower and Represent Act of 2018) and discuss implementation opportunities.
Violence Against Women Act (VAWA)

Key Recommendations from Advocates for Reauthorization

The National Task Force to End Sexual and Domestic Violence (“NTF”) is focused on the development, passage and implementation of effective public policy to address domestic violence, dating violence, sexual assault and stalking. The full membership of the NTF is comprised of a large and diverse group of national, tribal, state, territorial and local organizations, as well as individuals, committed to securing an end to violence against women.

The NTF is supporting a limited number of key enhancements to the Violence Against Women Act based on our process of broadly surveying thousands for advocates and allied professionals about the needs of survivors and communities. This extensive feedback from the field informed the work of subject matter workgroups that developed specific recommendations to improve VAWA in critical areas. Any bill that erodes current protections is unacceptable.

INVEST IN PREVENTION:

- Increase the authorization of the Rape Prevention & Education Program (RPE) to $150 million (current authorization $50 million) and specifically include sexual harassment to its authorized use. Demand for programs funded by RPE have skyrocketed with the #MeToo movement and the national focus on campus sexual assault, and a corresponding increase is critically necessary to meet the need of communities.
- Increase funding for VAWA Consolidated Youth grants. Prevention education that engages men and boys as allies and promotes healthy relationships is key to reducing gender-based violence. Increased funding will provide programs with the resources they need to increase the depth and reach of these critical programs.

EXPAND ACCESS:

- Promote safety for victims of violence on tribal lands by: clarifying that tribal courts can hold domestic violence offenders who assault tribal police officers or other justice officials accountable; ensuring non-Indian perpetrators who commit sexual assault, stalking, child abuse, and trafficking on tribal lands are held accountable; creating a permanent authorization for DOJ’s Tribal Access to National Crime Information Program; improving the response to cases of missing and murdered women in tribal communities; and addressing the unique barriers to safety for Alaska Native women.
- Expressly add sexual harassment to the allowable uses of the Workplaces Respond to Domestic and Sexual Violence: A National Resource Center, which provides tools, resources, and training to private employers and federal agencies.
- Promote economic security for survivors and assist with supports for leaving abusers with targeted enhancements to existing law including allowing domestic violence, sexual assault and stalking victims to be eligible for unemployment insurance; protections from discrimination in employment based on one’s status as a victim; research into the economic impacts of victimization on college students, and public education related to economic abuse and economic security for victims.

For more information, email NTF4VAWA@gmail.com
● Train healthcare providers to better recognize and respond to domestic violence, dating violence, sexual assault and stalking across the lifespan, particularly through HRSA programs such as the Maternal, Infant, and Early Childhood Home Visiting program.

REMOVE BARRIERS:
● Ensure compliance with VAWA non-discrimination requirements and guarantee equal access to VAWA protections for all victims regardless of gender, especially those from marginalized communities.
● Enforce housing rights for survivors/victims, create a position at HUD specifically tasked with this work, increase survivors’ options to maintain housing or break their leases, and strengthen the emergency transfer protections in federal housing programs to assist survivors needing to flee their homes due to safety concerns.
● Add a new purpose to the Improving Criminal Justice Response grant program to implement alternative justice responses that are focused on victim autonomy, agency and safety to provide resolution and restitution for the victim.
● Strengthen privacy protections across state line, online with digital records, and preserve confidentiality upon survivor’s death in accordance with their wishes.
● Remove the use of bench warrants and other body attachments to compel victim cooperation and testimony, as this has been found to be traumatizing for the victim and counterproductive in encouraging victims to cooperate.
● Acknowledge the trauma of incarceration on women and their family members, especially their children, and improve health care services and trauma informed responses to better prepare incarcerated women to return to their communities.
● Improve enforcement of current domestic violence-related firearms laws and equally protect all victims.

DEFINITIONS:
Revise a few definitions to clarify language, match state laws, address new technological concerns, and provide technical corrections.
● New definitions include: Abuse in Later Life (in lieu of elder abuse); Alternative Justice Response; Digital Services; Forced Marriage; Economic Abuse; and Technological Abuse.
● Amended definitions include:
  o Domestic Violence – the original definition is outdated and does not sync with most state laws; correct unintended 2013 deletion of “Court-based and court-related personnel.”
  o Legal Services (to include vacatur and expungement).

NEW GRANT CONDITIONS:
● Allow grantees to use technology to protect victim privacy.
● Extend advocate confidentiality beyond the death of the victim so victims feel free to communicate fully with their advocates without concern for reputation, civil liability, or possible harm to friends or family.

AMENDED GRANT CONDITIONS:
● Clarify that VAWA confidentiality applies to federal and state agencies seeking information from grantees.
● Urge DOJ’s Office on Violence Against Women (OVW) to make training widely available.
● Permit grantees to serve victims of forced marriage who are also victims of a VAWA crime.
● Increase the cap on expenditures requiring Deputy Attorney General approval to allow DOJ’s Office on Violence Against Women to more easily provide oversight and support for VAWA multi-day training events.

For more information, email NTF4VAWA@gmail.com
Key Points:
- American Indian and Alaska Native (AI/AN) women experience higher rates of violence.
- AI/AN women experience violence more commonly by non-Native perpetrators.
- AI/AN victims of violence are less likely to receive needed services.

Violence Against AI/AN Women – Data Trends

In the United States, violence against AI/AN women has reached devastating levels on tribal lands and in Alaska Native villages. From the latest National Institute of Justice (NIJ) Research Report released in May 2016, we learned the following (Rosay, 2016):

- **More than 4 in 5** American Indian and Alaska Native (AI/AN) women (84.3 percent) have experienced violence in their lifetime.
- **More than half** of AI/AN women (56.1 percent) have experienced sexual violence in their lifetime.
- **More than half** of AI/AN women (55.5 percent) have experienced physical violence by intimate partners in their lifetime.
- **Almost half** of AI/AN women (48.8 percent) have been stalked in their lifetime.
- AI/AN women are **1.7 times more likely** than White women to have experienced violence in the past year.
- Native women also face **murder rates** more than 10 times the national average in some counties (Bachman, Zaykowski, Kallymer, Poteyeva, & Lanier, 2008).
AI/AN women were almost 2 times as likely to have experienced rape as non-Hispanic White women (34.1 percent vs. 17.9 percent) over the course of a lifetime.

The murder rate of AI/AN women is almost 3 times that of non-Hispanic White women. (Petrosky, et al, 2017).

### Non-Native Perpetrators of Violence and AI/AN Women – Data Trends

The challenging reality is that Native women are significantly more likely than other women to experience violence committed by interracial perpetrators. The 2013 Reauthorization of the Violence Against Women Act (VAWA) included an historic provision reaffirming tribes’ inherent power to exercise Special Domestic Violence Criminal Jurisdiction (SDVCJ) over non-Indian perpetrators who commit acts of domestic violence, dating violence, or violations of certain protection orders in Indian Country. The law does not, however, cover sexual assault, stalking, or trafficking crimes. The following statistics came from the NIJ Report (Rosay, 2016):

- **96%**
  - The vast majority (96 percent) of AI/AN female victims of sexual violence experience violence at the hands of a non-Native perpetrator; 21 percent have experienced intraracial violence.

- **5x**
  - AI/AN women were 5 times as likely to have experienced physical violence by an interracial intimate partner as non-Hispanic White women (90 percent vs. 18 percent).

- **More than 4 in 5**
  - AI/AN women (89 percent) have experienced stalking by a non-Native perpetrator.

### Access to Services & Justice – Data Trends

AI/AN victims of violence are more likely to experience injuries requiring medical treatment and less likely to be able to access services than non-Native women. The following statistics came from the NIJ Report (Rosay, 2016):

- **1.5x**
  - AI/AN female victims are 1.5 times as likely as non-Hispanic white female victims to be physically injured.

- **2x**
  - AI/AN women are 1.9 times as likely as non-Hispanic white women to have missed days of work or school as a result of their victimization.

- **2.5x**
  - AI/AN women are 2.5 times as likely as non-Hispanic white women to lack access to needed services.
References


Citation:


Questions:

NCAI Policy Research Center – email: research@ncai.org; website: http://www.ncai.org/prc
VAWA 2013’s Special Domestic Violence Criminal Jurisdiction (SDVCJ) Five-Year Report
March 20, 2018

“We have always known that non-Indians can come onto our lands and they can beat, rape and murder us and there is nothing we can do about it….Now, our tribal officers have jurisdiction for the first time to do something about certain crimes. But it is just the first sliver of the full moon that we need to protect us.”

—Lisa Brunner
White Earth Ojibwe Nation
Intergenerational Domestic Violence Survivor

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For 35 years, the law failed to protect women like Taryn Minthorn.

Like many Indian women, Minthorn dated a non-Indian man. Eventually the relationship ended and her former boyfriend became dangerous. He spent months verbally abusing her before things became physically violent in September 2016. Her former boyfriend assaulted her in front of her children. When tribal police arrived, they promptly arrested him.

Her case was referred to the federal government for prosecution; however, they declined to prosecute her abuser. As Ms. Minthorn describes it, “I felt like I was seriously let down….I felt like he could do all the crime in the world, and it was just a slap on the hand. I just wanted to give up.”

Until recently, Minthorn’s case would have ended there, with her abuser walking free because only federal courts had jurisdiction to prosecute her non-Indian abuser.

However, because Minthorn’s tribal Nation, the Confederated Tribes of the Umatilla Indian Reservation, was one of the first tribes to exercise Special Domestic Violence Criminal Jurisdiction over non-Indians under the Violence Against Women Act of 2013, Minthorn was able to receive justice. Umatilla prosecutors were ready and willing to do something about her abuse.

In March 2017, her former boyfriend pled guilty in Umatilla Tribal Court. His sentence included two years of incarceration, three years of probation, abstaining from drugs and alcohol, anger management and batterer intervention treatment, and obeying a no contact order.

In Minthorn’s words, “[t]o hear him saying that he was pleading to these charges, I literally felt the load come off of me, off my shoulders, off my mind, off my heart.” Without her tribe being able to step in and prosecute, Minthorn and her children would not have seen justice.

Tribal court jurisdiction over non-Indian abusers makes all the difference for women like Minthorn who previously had nowhere else to turn. As she says, “It’s important for future generations to know that eventually there is justice.”1
EXECUTIVE SUMMARY

Five years ago, Congress passed the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). In response to the high rates of domestic violence being perpetrated against American Indian and Alaska Native women by non-Indian men, and harrowing stories from victims whose abusers seemed out of justice’s reach, the law contained a new provision. VAWA 2013 recognized and affirmed the inherent sovereign authority of Indian tribal governments to exercise criminal jurisdiction over certain non-Indians who violate qualifying protection orders or commit domestic or dating violence against Indian victims on tribal lands. This provision in VAWA 2013 created a framework for tribal courts to prosecute non-Indians again—something that had not happened in 35 years, since the U.S. Supreme Court decision in Oliphant v. Suquamish Tribe, which removed tribal authority to prosecute non-Indians.

VAWA 2013’s limited reaffirmation of inherent tribal criminal jurisdiction over non-Indians, known as Special Domestic Violence Criminal Jurisdiction (SDVCJ), has fundamentally changed the landscape of tribal criminal jurisdiction in the modern era. By exercising SDVCJ, many communities have increased safety and justice for victims who had previously seen little of either. SDVCJ has allowed tribes to “respond to long-time abusers who previously had evaded justice” and has given a ray of hope to victims and communities that safety can be restored.

To date, 18 tribes are known to be exercising SDVCJ (throughout this report these tribes are referred to collectively as “implementing tribes”). Tribes are implementing SDVCJ with careful attention to the requirements of federal law and in a manner that upholds the rights of defendants. In order to exercise SDVCJ, tribes must comply with a series of federal statutory requirements that include, among other things, providing certain due process protections to non-Indian defendants. Most of these implementing tribes have worked closely with a group of over 50 other tribes as part of an Inter-tribal Technical-Assistance Working Group (ITWG) on SDVCJ that has been an important forum for tribal governments to work collaboratively to develop best practices.

To date, the implementing tribes report 143 arrests of 128 non-Indian abusers. These arrests ultimately led to 74 convictions, 5 acquittals, and 24 cases currently pending. There has not been a single petition for habeas corpus review brought in federal court in an SDVCJ case. Although preliminary, the absence of habeas petitions suggests the fairness of tribal courts and the care with which tribes are implementing SDVCJ.

Implementation of SDVCJ has had other positive outcomes as well. For many tribes, it has led to much-needed community conversations about domestic violence. For others it has provided an impetus to more comprehensively update tribal criminal codes. Implementation of SDVCJ has also resulted in increased collaboration among tribes and between the local, state, federal, and tribal governments. It has revealed places where federal administrative policies and practices needed to be strengthened to enhance justice, and it has shown where the jurisdictional framework continues to leave victims—including children and law enforcement—vulnerable. Implementation thus far has also revealed that additional resources are necessary in order for the benefits of the law to expand to more reservations.

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1 See infra Section I.

2 Since the end of the pilot period, tribes are not required to notify the U.S. Department of Justice if they begin exercising SDVCJ. This report covers the 18 implementing tribes that have reported implementation to the National Congress of American Indians and its partner technical assistance providers, although it remains a possibility that there are other tribes implementing SDVCJ.
This report summarizes how VAWA 2013’s landmark provision has been implemented and analyzes its impacts in the 5 years since it was enacted. This examination of the tribes’ early exercise of SDVCJ suggests that VAWA 2013 has been a success. As Congress intended, the law has equipped tribes with the much-needed authority to combat the high rates of domestic violence against Native women, while at the same time protecting non-Indians’ rights in impartial, tribal forums.

The report begins in Section I with a brief overview of the need for the tribal provisions in VAWA 2013 and the context for their passage. It then provides in Section II, an overview of nationwide SDVCJ prosecution statistics and analyzes tribal experiences exercising SDVCJ over the past four years. It identifies four key findings, which are as follows:

1. Tribes use SDVCJ to combat domestic violence by prosecuting offenders harming their communities
   1-1. Non-Indian perpetrated domestic violence is a real problem
   1-2. Many defendants have numerous prior contacts with tribal police, demonstrating SDVCJ can end impunity
   1-3. Many SDVCJ defendants have criminal records or outstanding warrants
   1-4. A diverse array of tribes have successfully implemented SDVCJ
2. Tribal courts uphold the rights of defendants and are committed to their rehabilitation
   2-1. SDVCJ case outcomes demonstrate fairness
   2-2. Tribes are invested in helping defendants get the help they need
3. Implementation revealed serious limitations in the law
   3-1. The statute prevents tribes from prosecuting crimes against children
   3-2. The statute prevents tribes from prosecuting alcohol and drug crimes
   3-3. The statute prevents tribes from prosecuting crimes that occur within the criminal justice system, thereby endangering law enforcement and undermining the integrity of the system
   3-4. There was initial confusion concerning the scope of the federal statutory definition of “domestic violence”
   3-5. SDVCJ is prohibitively expensive for some tribes
   3-6. Detention issues and costs create implementation challenges
   3-7. SDVCJ is jurisdictionally complex
4. SDVCJ implementation promotes positive changes
   4-1. SDVCJ promotes positive tribal reforms
   4-2. Inter-tribal collaboration creates successes beyond SDVCJ
   4-3. SDVCJ promotes better relationships with other jurisdictions

Following the findings in Section II, Section III provides an overview of the requirements of those provisions and how they are structured. After supplying this context on the law, Section IV includes brief profiles of the 18 implementing tribes, including individual prosecution statistics. Finally, Section V examines the diversity in how tribes have chosen to meet the statutory requirements of VAWA 2013 and illustrates how the statute has allowed tribes to implement SDVCJ differently depending on the needs and values of their communities. The appendices to this report include resources on implementation of SDVCJ and other materials that may be of interest.

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iii Although VAWA 2013 was enacted 5 years ago, the SDVCJ provision took effect as a Pilot Project 1 year later and became effective nationwide in March of 2015.
Rape Prevention & Education Program (RPE)

Ask: In VAWA reauthorization legislation, increase authorization for RPE to $150 million

RPE formula grants, administered by the CDC Injury Center, provide essential funding to states and territories to support rape prevention and education programs conducted by rape crisis centers, state sexual assault coalitions, and other public and private nonprofit entities.

In the past few years, demand for programs funded by RPE have skyrocketed, the evidence base has progressed significantly, the current appropriation is very nearly the authorized level, and further investment in the program is desperately needed.

The #MeToo movement, the national focus on campus sexual assault, and high-profile cases of sexual violence in the media have increased the need for comprehensive community responses to sexual violence but has also increased the demand for prevention programs beyond providers’ capacity.

A 2018 survey by NAESV revealed that 40% of programs had a waiting list of a month or more for prevention programming.

According to a 2018 survey by the National Sexual Violence Resource Center, the average percent of coverage of RPE-funded programs was 39% of the state. Nearly half of the states responding reported RPE funding coverage in their state at 20% or less with rural areas especially lacking in access to prevention.

If our children are to face a future free from sexual violence, RPE must be increased.

The RPE program prepares everyday people to become heroes, getting involved in the fight against sexual violence and creating safer communities by:

- Engaging boys and men as partners;
- Supporting multidisciplinary research collaborations;
- Fostering cross-cultural approaches to prevention; and
- Promoting healthy, non-violent social norms, attitudes, beliefs, policies, and practices.

"Before these classes, I didn't really understand what consent was." A student to a prevention educator in Oklahoma.

We know RPE is working. A 2016 study conducted in 26 Kentucky high schools over 5 years and published in American
Journal of Preventive Medicine found that an RPE-funded bystander intervention program decreased not only sexual violence perpetration but also other forms of interpersonal violence and victimization.

“The idea that, due to the effectiveness of Green Dot, … there will be many fewer young people suffering the pain and devastation of sexual violence: This is priceless.” Eileen Recktenwald, Kentucky Association of Sexual Assault Program

Across the country, states and communities are engaged in cutting-edge prevention projects:

Alaska’s Talk Now Talk Often campaign is a statewide effort developed in collaboration with Alaskan parents, using conversation cards, to help increase conversations with teens about the importance of having healthy relationships.

Connecticut’s Women & Families Center developed a multi-session curriculum addressing issues of violence and injury targeting middle school youth.

Kansas is looking closely at the links between sexual violence and chronic disease to prevent both.

Maryland’s Gate Keepers for Kids program provides training to youth-serving organizations to safeguard against child sexual abuse.

Missouri is implementing “Green Dot” bystander education statewide to reduce the rates of sexual violence victimization and perpetration.

North Carolina was able to ensure sustainability of its consent-based curriculum by partnering with the public school system to implement their sexual violence prevention curriculum in every 8th grade class.

Oklahoma is working with domestic violence and sexual violence service agencies, public and private schools, colleges and other community based organizations to prevent sexual violence.

Washington is implementing innovative skill building projects that amplify the voices of historically marginalized communities.

Why increase funding for RPE?
The societal costs of sexual violence are incredibly high including medical & mental health care, law enforcement response, & lost productivity. 2017 research sets the lifetime economic burden of rape at $122,000 per victim and reveals a strong link between sexual violence and chronic disease.

According to the National Intimate Partner and Sexual Violence Survey (CDC, 2011):

- Nearly 1 in 5 women have been the victim of rape or attempted rape.
- Most female victims of completed rape (79.6%) experienced their first rape before the age of 25; 42.2% experienced their first completed rape before the age of 18 years.
- More than one-quarter of male victims of completed rape (27.8%) experienced their first rape when they were 10 years of age or younger.

“The #MeToo movement, the Cosby trial, the Catholic Church grand jury report and the Kavanaugh hearings are all things that program participants have told us have prompted them to call.” 2018 Rape Crisis Center Survey respondent

A Massachusetts program reported: “With Title IX in the news, requests for prevention education have increased…We are saying no to many requests for education because of capacity issues.”

A Nebraska program reported: “I am hugely dismayed at the lack of funding for prevention…It’s noble to provide direct services to victims of sexual violence, but if we don’t provide prevention monies, then we are just a band-aid. It’s terribly frustrating.”

Funding History: In the 2013 reauthorization of VAWA, Congress cut authorization for RPE from $80 to $50 million. In FY 17, the program was funded at $44.4 million, a $5 million increase from FY 16. In FY 18 and FY 19, the Senate funded RPE at $49.4 million.

HAVE ADDITIONAL QUESTIONS?
Contact Terri Poore, Policy Director at terri@endsexualviolence.org
The intersection between domestic violence and firearms:

- Firearms are used to control, coerce, terrorize and intimidate victims and survivors of domestic violence:
  - Approximately 4.5 million American women alive today have been threatened by intimate partners with firearms. One million have actually been shot or shot at by their abusers.¹
  - A survey of contacts by the National Domestic Violence Hotline found, of respondents’ whose abusers had access to firearms:
    - 10% said their abusers had fired a gun during an argument;
    - 67% believed their abusers were capable of killing them.²
  - Even when a firearm is not used directly against the victim, an abuser’s mere possession of a firearm correlates with increased severity of abuse.³
- Firearms are the weapon of choice for domestic violence homicides:
  - In 2015, 928 women were killed by male intimate partners. Most of these women were killed by abusers with firearms.⁴
  - 1 in 3 female murder victims and 1 in 20 male murder victims are killed by intimate partners.⁵
  - 35% of all women killed by men are killed by intimate partners with guns.⁶
  - An abuser’s access to a firearm increases the risk of femicide by at least 400%.⁷
  - Domestic violence incidents involving firearms are twelve times more likely to result in death than incidents involving other weapons or bodily force.⁸
  - 44% of mass shootings between 2008 and 2013 involved intimate partners.⁹
  - Women in the US are 11 times more likely to be murdered with a gun than in other high-income nations.¹⁰
- Intimate partner homicides committed with firearms are on the increase. Between 2010 and 2017, the number of intimate partner homicides committed with firearms increased 26%. Intimate partner homicides committed with other weapons decreased.
- Possession of a firearm does not make women safer:
  - Research shows that possessing a firearm is not a protective factor.¹¹
  - An abused woman’s purchase of a firearm increases the risk of intimate partner homicide by 50% and doubles the risk of firearm homicide by an abusive partner.¹²
  - Even NYPD officers, who train constantly, hit their targets less than half of the time from seven yards away.¹³

Improving Enforcement

Enforcing existing domestic violence firearms prohibitors
Allows the use of STOP and ICJR grants to develop and institute relinquishment protocols for abusers prohibited by court order or state law from possessing firearms; requires state, territorial, local, tribal governments to certify they have established and implemented such a program within three years to be eligible for grants
- State laws requiring abusers prohibited from possessing firearms to relinquish their firearms are associated with a 12% decrease in intimate partner homicide.¹⁴
A 2010 study found that only 12% of prohibited respondents to domestic violence protective orders in New York and Los Angeles who possessed firearms relinquished those firearms or had them recovered.15

A pilot study in California found that 75% of petitioners felt safer after law enforcement had confiscated their abusers’ firearms; 5/6th of those whose abusers retained their firearms felt less safe.16

**Notifying state and local law enforcement**

Requires notification of state and local law enforcement when an abuser fails a firearms background check; requires notification of state, tribal, and local law enforcement when an abuser obtains a firearm via default proceed and is then determined to be a prohibited person:

- A plurality of default proceed transfers (when a firearm is transferred prior to the completion of a background check, because 72 hours had elapsed) to prohibited persons in 2013 and 2014 that were subsequently referred to the ATF were to persons prohibited due to domestic violence.17

- In 2013 and 2014, 30% of denials for misdemeanor crimes of domestic violence are issued after the prohibited abuser has taken possession of the firearm, because the background check was unable to be completed within 72 hours.18

- Attempted purchase of a firearm by a domestic violence perpetrator is often a sign of potentially lethal escalation of violence, and local law enforcement needs to be informed in order to take the necessary steps to protect victims and survivors.

**Deputizing Special Assistant US Attorneys and establishing points of Contact at the ATF and US Attorney’ offices – recommended by the Department of Justice**

Authorizes the Attorney General to use existing authority to deputize Special Assistant US Attorneys in jurisdictions with high rates of firearm-involved intimate partner violence to enforce federal domestic violence firearms prohibitors or to assist the U.S. Attorneys’ offices in prosecuting persons who have violated federal domestic violence firearms prohibitions. Authorizes ATF to deputize local law enforcement to seize illegally held firearms in coordination with ATF (*US v. Weiland*, 420F.3d 1062 (9th Cir. 2005)):

- Over half of states19 do not have a final domestic violence protective order firearms prohibitor (although some allow judges to prohibit possession at their discretion).

- Eighteen states20 do not have a misdemeanor crime of domestic violence firearms prohibitor, and two states21 have conditional prohibitors.

**Protecting All Victims**

**Posted municipal ordinances**

In response to an outlier 10th Circuit Court ruling that domestic violence convictions under local laws do not trigger the federal prohibitor, clarifies that posted municipal ordinances trigger the misdemeanor crime of domestic violence firearms prohibitor (amends 18 USC 921(a)(33)):

- The 10th Circuit ruling is in direct conflict with ATF regulations.22

- Many domestic violence misdemeanor cases, particularly in large urban areas, are prosecuted under local or state law. Very few are prosecuted under federal law.
Dating violence prohibitor
Expands the definition of ‘intimate partner’ in 18 USC 921(a)(32) to include dating partners:

- 48.6% of women killed by intimate partners are killed by dating partners.  
- 25% of homicides of adolescent girls between the ages of 11 and 18 are committed by intimate partners. Most of these are committed using firearms.  
- 15% of all homicides of young adults, including both male and female victims, between the ages of 19 and 24 were killed by intimate partners. Most of them were killed using firearms.  
- Rates of violence are highest for intimate partners between the ages of 18 and 24.  
- 80% of intimate partner violence calls to law enforcement are for dating violence.  
- States that prohibit both domestic and dating abusers from possessing firearms have a 10% lower rate of intimate partner homicide than states that do not.

Stalking prohibitors
Add misdemeanor stalking to the list of prohibiting factors in 18 USC 922(g) and amend the description of a qualifying protective order to include stalking protective orders:

- Americans who experience stalking are at least 200 times more likely to be murdered than Americans who are not stalked; due to many data limitations, the true magnitude of this increased risk is likely to be much higher.
- 76% of women murdered by intimate partners and 85% of women who survived murder attempts were stalked first.

Ex parte prohibitor
Adds ex parte orders to the existing protective order prohibitor in 18 USC 922(g)(8):

- The most dangerous time in an abusive relationship is when the victim seeks to leave, which is also often when they seek ex parte protective orders.
- A ten-city study found 1/5 of homicide victims with temporary protective orders were murdered within two days of obtaining the order; 1/3 were murdered within the first month.
- Prohibiting respondents to ex parte domestic violence protective orders from possessing firearms is associated with a 12% decrease in intimate partner homicide.
- Provides for due process by requiring that notice and opportunity to be heard must be provided before an ex parte order can trigger the protection order prohibitor under 18 U.S.C. 922(g)(8).

Contact Rachel Graber (rgraber@ncadv.org) or Rob Valente (rvalente@ncadv.org) for more information.

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18 Ibid.

19 AK, AZ, AR, DC, GA, ID, IN, KS, KY, MI, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, VT, WY

20 AK, AR, FL, GA, ID, KS, KY, MI, MO, MS, NH, NM, NY, NC, ND, OH, OK, VA, WI, WY, TN

21 MD, ND


25 Ibid.

Violence Against Women Act (VAWA) Protecting LGBTQ Survivors

Domestic violence, dating violence, sexual violence, and stalking are serious social problems and all victims deserve access to life-saving services. The Violence Against Women Act (VAWA), first authorized in 1994, is at the core of our nation’s response to these insidious and pervasive crimes, and creates and supports comprehensive, effective, and cost saving responses. As part of VAWA’s reauthorization process, NTF seeks to safeguard VAWA’s current protections for LGBTQ survivors of domestic violence, dating violence, sexual violence and stalking while further expanding access to LGBTQ specific services to ensure that LGBTQ survivors face fewer barriers in accessing services and finding safety.

LGBTQ communities experience domestic violence, dating violence, sexual violence, and stalking at similar to higher rates as non-LGBTQ communities.

- Forty-four percent of lesbian women and 61% of bisexual women experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime compared to 35% of heterosexual women. 26% percent of gay men, and 37% of bisexual men experienced rape, physical violence, and/or stalking by an intimate partner at some point in their lifetime compared to 29% of heterosexual men.¹
- A national study on students in grades 9 through 12 found that 8.3% of heterosexual students and 17.5% of gay, lesbian, and bisexual students reported physical dating violence, and 9.1% of heterosexual and 22.7% of gay, lesbian, and bisexual students reported sexual dating violence one or more times during the 12 months prior to the survey.²
- In the U.S. Transgender Survey (2015), which had more than 27,000 respondents, nearly half (47%) of respondents experienced sexual violence at some point in their lifetime and one in ten (10%) experienced sexual violence in the past year. Respondents who have experienced homelessness (65%) and people with disabilities (61%) were more likely to have experienced sexual violence in their lifetime.³
- The rate of stalking among bisexual women is more than double the rate among heterosexual women. One in 3 bisexual women (37%) and 1 in 6 heterosexual women (16%) have experienced stalking victimization at some point during their lifetime in which they felt very fearful or believed that they or someone close to them would be harmed or killed.⁴

The explicit non-discrimination provisions for LGBTQ communities included in the reauthorization of VAWA in 2013 have been monumental for LGBTQ survivors of violence and LGBTQ communities across the country. These protections reflected the commitment of the domestic violence and sexual violence movement to better address the needs of LGBTQ survivors, and more organizations are working to make their services inclusive of LGBTQ communities.
However, the continued barriers experienced by LGBTQ survivors as they attempt to access care and support underscores the continued need for a fully inclusive VAWA.

- Of the total number of LGBTQ domestic violence survivors that reported to the National Coalition of Anti-Violence Programs (NCAVP) in 2015, 43% interacted with law enforcement in some form: 12% said police were hostile, 13% said that police were indifferent in their interactions, and 31% said they experienced misarrest, meaning the survivor was arrested rather than the abusive partner, up from 17% in 2014.\(^v\)

- The 2015 U.S. Transgender Survey found that only of 1% of transgender survivors visited or used services at a domestic violence shelter, domestic violence program, or rape crisis center in the past year. Fifty-nine percent of those who accessed these services believed that the staff or employees knew or thought they were transgender. Of those who believed their identity was known, 22% reported experiencing one or more of the following incidents: denied equal treatment or service, verbally harassed, or physically attacked because of being transgender.\(^vi\)

There is a significant need for LGBTQ specific programs for survivors.

- In a survey of 590 LGBTQ survivors, 69% indicated that given a choice, they would rather seek services for domestic violence from an LGBTQ specific program than a mainstream program. However, close to 20% had sought services via mainstream programs. The survey found much higher levels of satisfaction with services from LGBTQ specific programs.\(^vii\)

LGBTQ specific programs spend a significant amount of their time and resources providing technical assistance to support non-LGBTQ domestic violence and sexual violence organizations towards a goal of inclusivity.

- In a recent survey, 1 in 4 LGBTQ organizations reported spending the majority of their resources providing training and technical assistance to non-LGBTQ agencies.\(^viii\)

As a result of a fully LGBTQ inclusive VAWA being re-authorized, more survivors will have access to necessary life-saving services reflecting our country’s deep commitment to address the needs of domestic violence, dating violence, sexual violence, and stalking survivors.

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\(^{viii}\) National LGBTQ Institute on IPV (2017). By & for: The unique services, experiences, and approaches of LGBTQ domestic violence and anti-violence agencies. A report of the National LGBTQ Institute on IPV. Seattle, WA
The Violence Against Women Act (VAWA) is the cornerstone of our nation’s response to domestic violence, dating violence, sexual assault and stalking. VAWA grant programs, administered by the Office on Violence Against Women (OVW) at the U.S. Department of Justice, provide funding, guidance and tools to law enforcement, prosecutors, judges, victim service providers, and communities to provide comprehensive support to victims, hold offenders accountable, and keep communities safe.

Since originally enacted in 1994, each VAWA reauthorization has been used to address the realities and needs reported by victims themselves and those who work directly with them every day. The reauthorization process provides an invaluable opportunity to gather critical feedback from those administering programs on the ground – law enforcement, court personnel, advocates, and community partners – to ensure that VAWA continues to promote effective responses across systems and efforts to prevent the recurrence of victimization.

VAWA has improved the ability of the civil and criminal legal systems to address domestic violence, dating violence, sexual assault, and stalking.

While more research is needed, there is a solid and growing body of evidence on VAWA’s effectiveness at reducing violence and supporting flexible, coordinated and effective responses between prosecutors, law enforcement, and service providers.

VAWA supports the development of a coordinated community response (CCR), which brings grantees together to collaboratively work toward protecting victims and holding offenders accountable, and research has shown that efforts to address domestic violence and sexual assault are most effective when combined and integrated in this way.\(^1\)

- Research shows that Sexual Assault Response Teams (SARTs), a form of CCR supported by VAWA, can improve legal outcomes, the help-seeking experiences of victims, and relationships between multidisciplinary responders.\(^2\)
- From pre-trial to post-conviction, VAWA has supported court systems reforms that increase victims’ access to justice, improve offender accountability, and reduce recidivism.\(^3\)

The largest grant program authorized under VAWA, accounting for nearly half of VAWA appropriations, is the Services, Training, Officers, Prosecutors (STOP) program. STOP operates as a block grant to states, based on population formulas. This allows states to determine how to best provide resources and facilitate coordination among law enforcement, prosecution, courts and victim services.

- In its most recent report to Congress on the STOP Program, OVW noted that STOP grant-funded programs helped 362,172 victims of domestic violence, dating violence, sexual violence, and stalking; funded 2,226 staff members, including victim advocates, law enforcement officers, counselors, and attorneys.\(^4\)
- VAWA has helped “strengthen victims’ involvement with criminal justice authorities such as prosecutors and court officers,”\(^5\) and the “STOP program has been critical to law enforcement and prosecution training, and the development of specialized units.”\(^6\)

Between 1994 and 2012, the rate of domestic violence decreased by 63%.\(^7\) From 1996 to 2015, the rate of women murdered by men in single victim/single offender incidents dropped 29%.\(^8\)

- These sharp declines have been attributed, in part, to changes in attitudes about the acceptability of abuse and the increased ability of victims to leave abusive relationships, factors facilitated by VAWA.\(^9\)
VAWA supports a coordinated justice system response to ensure safety for families and children. VAWA’s language explicitly protects the constitutional rights of both victims and alleged perpetrators and upholds state laws regarding standards of evidence and other procedural considerations in civil and criminal cases.

- Based on feedback from the field, provisions encouraging mandatory arrest were removed from VAWA at its first reauthorization in 2000 and replaced with pro-arrest policies based on probable cause. The fact that some states continue to have a mandatory arrest policy reflects decisions made at the state level and is not a requirement under VAWA.
- The language of VAWA makes it abundantly clear that constitutional protections cannot be abridged in the process of responding to domestic violence, dating violence, sexual assault, or stalking.
- Specifically, in 18 U.S.C. 2265, VAWA requires that “reasonable notice and opportunity to be heard is given to the person against whom the [civil protection] order is sought sufficient to protect that person’s right to due process” as a prerequisite to those orders being acceded Constitutional full faith and credit.
- In every state in the nation, there must be at least a preponderance of evidence to suggest that one partner has abused the other before a court will issue a civil protection order, and every state in the nation requires evidence to be established beyond a reasonable doubt in criminal proceedings.
- When a survivor chooses to obtain a protective order, more often than not, it reduces violence.
  - In one Kentucky study, threats and physical abuse dropped dramatically during the six months after a survivor obtained a protective order. Threats to kill or harm decreased nearly 50 percent. Moderate physical abuse decreased 61 percent and severe physical abuse decreased nearly 50 percent.
- VAWA does not create any requirements on how states or local courts handle divorce and custody cases within their jurisdictions. The law in every state requires courts to award custody based on the best interests of the child.

The 2018 VAWA reauthorization must maintain the protections within current law while making targeted enhancements to increase the accessibility and responsiveness of the criminal and civil legal systems.

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For domestic violence and sexual assault victims, programs that support basic economic security are of critical importance. While domestic violence and sexual assault occur across the socio-economic spectrum, there are unique challenges and barriers at the intersection of these forms of violence and economic disadvantage:

- Significant numbers of low-income women are abused or assaulted, and the violence perpetrated against them can make it nearly impossible to climb out of poverty without public assistance.\(^1\)
- Abuse can result in victims falling into poverty: either because the domestic violence itself included financial abuse or because the consequences of abuse have undermined the victim’s ability to work, maintain their housing, or otherwise access financial security.
- Poverty and economic instability can exacerbate the consequences of domestic violence and sexual assault due to lack of access to affordable counseling and health services, transportation, and/or legal assistance.\(^2\)

Access to economic security programs like TANF, SNAP, affordable healthcare through Medicaid and the Affordable Care Act, and federal housing assistance are critical in providing increased economic stability for survivors. TANF and SNAP enable survivors to afford food and other basic necessities, and also give victims a road to financial independence in many states where benefits include job training, childcare assistance, and transportation assistance. Federal housing programs allow low-income survivors to relocate and rebuild after fleeing violence. Affordable healthcare enables victims to recover from the physical and mental health impacts of violence and abuse. Without these essential programs, many survivors would be forced to remain in or return to an abusive relationship in order to meet their own or their children’s basic needs.

Any proposal to cut funding for programs that support basic economic security would be devastating to domestic violence and sexual assault victims, as would changes in these programs that erect further barriers to access. These programs are essential to the safety of survivors and of their children and often constitute the bare minimum of support necessary for survivors to leave an abuser and establish safety and security.

“For many survivors, jobs, housing, and financial stability can be affected by abusive situations and relationships. Many survivors have the skills and ability to secure jobs, and secure housing, but TANF and SNAP can be invaluable in the interim between leaving an abuser and feeling stable and safe.”

Temporary Assistance for Needy Families (TANF)

In a 2018 survey of people working directly with survivors of violence:\(^3\)

- Nearly 85% of respondents indicated that TANF is a very critical resource for a significant number of domestic violence and sexual assault victims.
- Despite TANF being essential for survivors’ financial security and safety, victims encounter considerable barriers when trying to access TANF:
  - 43% of respondents said that the education and job training requirements are very difficult for survivors to meet given the dynamics and impacts of violence in victims’ lives.
  - 57% of respondents said insufficient access to affordable childcare is a barrier for survivors trying to access TANF.
• 51% of respondents said that the amount of TANF benefits is too low to adequately address the needs of victims and their families.

**Supplemental Nutrition Assistance Program (SNAP)**

In a 2018 survey of people working directly with survivors of violence:⁴

- Over 88% of respondents said that SNAP is a *very critical resource* for a significant number of domestic violence and sexual assault victims.
- Respondents shared that SNAP is a “life-line” for victims, yet also described challenges that survivors face when trying to access SNAP:
  - 39% of respondents said inconsistencies in victims’ ability to qualify for emergency or expedited benefits too often results in delays in accessing food.
  - Respondents also identified work and training requirements, as well as documentation requirements to “prove” victimization, as overly onerous for victims.

**Medicaid and Affordable Healthcare**

- In a 2018 survey of people working directly with survivors of violence, 76% said that Medicaid and Medicare are the programs that consistently help their clients the most.⁵
- Healthcare utilization and costs for abused women are up to 20% higher than the general population, and stay higher for up to 5 years after victimization.⁶
  - Victims of both domestic violence and sexual assault experience short and long-term health impacts from the violence, including injury, chronic pain, immune disorders, asthma, diabetes, and gastrointestinal disorders.
- Medicaid, including Medicaid expansion through the Affordable Care Act, provides increased access to needed healthcare services for victims, putting them on the path toward healing, safety, and self-determination.

**Federal Housing Programs**

Victims of domestic violence and sexual assault often flee life-threatening circumstances and seek refuge through emergency shelter, transitional housing and rapid rehousing programs in order to avoid homelessness. Additionally, victims rely on low-barrier subsidized housing programs (public housing, vouchers and more) to remain stable after abuse.

- Eighty-four percent of survivors in domestic violence shelters reported that they needed help finding affordable housing.⁷
- On a single day, out of 11,991 unmet requests for domestic violence services, 66 percent were for housing and shelter.⁸
- In a nationwide study, more than half (51.5%) of the victims who identified a need for housing services did not receive them.⁹
- Housing instability can further exacerbate abuse: Women and men who experienced food or housing insecurity in a 12-month period had a significantly higher prevalence of rape, physical violence, or stalking by an intimate partner in that same time period, as compared to those who did not experience food or housing insecurity.¹⁰
- The stakes are incredibly high as survivors flee their homes – three women are killed on average each day in this country – at the hands of a current or former abuser.¹¹

“**TANF, SNAP, Medicaid, and affordable housing – all of these services are especially helpful to victims who are often displaced and in need of immediate general welfare services to stabilize their own and their children’s lives. Many victims do not have a good support system in family and/or friends, and could not meet their most basic needs without these programs.”**

1 Id.


5 Id.


12 Id.
The Violence Against Women Act (VAWA) is the cornerstone of our nation’s response to domestic violence, dating violence, sexual assault and stalking. VAWA grant programs, administered by the Office on Violence Against Women (OVW) at the U.S. Department of Justice, provide funding, guidance and tools to law enforcement, prosecutors, judges, victim service providers, and communities to provide comprehensive support to victims, hold offenders accountable, and keep communities safe.

Since originally enacted in 1994, each VAWA reauthorization has been used to address the realities and needs reported by victims themselves and those who work directly with them every day. The reauthorization process provides an invaluable opportunity to gather critical feedback from those administering programs on the ground – law enforcement, court personnel, advocates, and community partners – to ensure that VAWA continues to promote fully accessible and effective services for all victims who find the courage to seek help and efforts to prevent the recurrence of victimization.

Domestic and sexual violence is widespread in the U. S., with immediate and significant impacts and life-long health consequences for victims and their families.

While women are disproportionately impacted by domestic violence (also referred to intimate partner violence or IPV) and sexual violence, VAWA-funded programs are also responsive to men abused in opposite-sex and same-sex relationships and men who are victims of sexual assault. VAWA’s non-discrimination requirements support programs’ ongoing ability to serve all victims who seek safety and services.

Both women and men experience domestic and sexual violence at alarming rates.\(^2\)

- Nearly 1 in 5 women (19.3%) and 1 in 59 men (1.7%) have been raped in their lifetime.
- Approximately 1.9 million women were raped during 2009.
- 1 in 4 women (22.3%) have been the victim of severe physical violence by an intimate partner, while 1 in 7 men (14.0%) have experienced the same.
- 1 in 6 women (15.2%) have been stalked during their lifetime, 1 in 19 men (5.7%).
- Among men who identify as gay, 26% report experiencing intimate partner violence, and 40% report experiencing sexual violence.\(^3\)

Disproportionate impact

- Women are more likely than men to experience severe physical violence, sexual violence other than rape by an intimate partner, stalking by an intimate partner, and expressive aggression.\(^4\)
- Women are more than 4 x more likely than men to be beaten, 6 x more likely to be slammed against something, and 9 x more likely to be hurt by choking or suffocating.\(^5\)
Enhanced services to underserved populations. Victims’ experiences and a growing body of research confirm that certain populations are victimized by violence and abuse – and report it – at different rates and may have less favorable experiences with the criminal justice system when they report. The ways that victims experience, resist, and survive violence can be shaped by a range of cultural, social, and economic factors.

VAWA funds authorized by Congress are used to address unique challenges that people from underserved and marginalized populations face when they are victimized. Grantees conduct culturally and linguistically specific outreach to these populations and develop policies, practices, and resources that ensure these victims can access the services and protections they need.

Decades of experience and evidence-based research highlights VAWA’s effectiveness. Victims of domestic and sexual violence face multiple physical, emotional, and financial barriers when seeking to become and remain safe from violence. Research has demonstrated that providing direct services and support that recognize the impact of trauma on victims can improve outcomes.

Victim service providers use VAWA funds to support victims and their families as they cope with the immediate and long-term physical, emotional, and economic impacts of their victimization. Nearly 1,900 domestic violence programs, and 1,300 rape crisis centers provide core services such as crisis intervention and advocacy, and a broader network of organizations provide specialized education, preventive, and culturally specific services.

As noted in OVW’s 2016 Biennial Report to Congress, VAWA-funded grantees provided more than 1 million services to victims in the 2 years covered by the report. On average, VAWA grantees provided services to 124,916 individuals – men, women and children – during each 6-month reporting period, including an average of 111,817 primary victims of sexual assault, domestic violence, dating violence, stalking, and/or child or elder abuse; as well as victims’ children. The services that VAWA-funded grantees provided to victims and family members most often were:

- **Housing bed nights**: 1,926,892
- **Hotline calls**: 591,788
- **Victim advocacy**: 288,858
- **Crisis intervention**: 171,831
- **Civil legal advocacy**: 97,534
- **Criminal justice advocacy**: 85,990

The 2018 VAWA reauthorization must maintain the protections within current law while making targeted enhancements to increase the accessibility and responsiveness of victim services.

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1 34 U.S.C. 12291(b)(13).
4 Ibid at 2.
5 Ibid.
VAWA 2019 Section-by-Section Analysis

Sec. 2 Amendments to VAWA section on universal definitions and grant conditions. VAWA 2019 incorporates a number of new terms and amends existing terminology. Among the new terms are “abuse in later life,” “alternative justice response,” “digital services,” “economic abuse,” “forced marriage,” and “technological abuse.” It also updates the existing grant definitions for domestic violence and elder abuse and amends the criteria for certain grant conditions pertaining to the nondisclosure of confidential or private information.

TITLE I — Enhancing Legal Tools to Combat Domestic Violence, Dating Violence, Sexual Assault and Stalking

Sec. 101 The bill allows the use of STOP grants to develop effective law enforcement tools and protocols for preventing domestic violence homicides. This includes ensuring the appropriate recovery and storage by law enforcement of dangerous weapons by adjudicated perpetrators of domestic violence, dating violence, sexual assault or stalking, as well as the return of such weapons where appropriate. Further, it conditions eligibility for grant monies on the development of protocols that discourage compelling victim testimony in order to support more trauma-informed approaches. It preserves dedicated funding levels for fiscal years 2020 through 2024.

Sec. 102 The bill renames this section as Grants to Improve the Criminal Justice Response. It focuses on the implementation of programs for offender accountability and homicide reduction. It eliminates the use of the term “older individuals” in favor of the term “people 50 years of age or over.” The bill also establishes an additional purpose area by introducing language to support the possibility of providing grants for pilot programs focused on increasing survivor and community safety by supporting voluntary alternative and community-based methods of survivor safety and perpetrator accountability. It also allows the use of grant monies to carry out policies and procedures relative to the surrender, removal and storage of firearms and ammunition from prohibited possessors and the return of firearms when appropriate. The bill preserves dedicated funding for 2020 through 2024.

Sec. 103 The bill preserves dedicated funding for legal assistance for victims for fiscal years 2020 through 2024, and permits such legal assistance to address the needs of the dependents of victims.

Sec. 104 The bill preserves dedicated funding, for fiscal years 2020 through 2024, for grants to support families in the justice system with a history of domestic violence, dating violence, sexual assault, or stalking.
Sec. 105 The bill preserves dedicated funding for fiscal years 2020 through 2024 for grants for outreach and services to underserved populations.

Sec. 106 The bill ensures that the limitations placed on the Internet publication of information pertaining to the filing of a protection order apply in a particular State, territorial or tribal jurisdiction regardless of whether the protection order was issued in that same State, territory, or tribal jurisdiction. The bill also ensures that all Alaska tribes have the same full civil jurisdiction as other tribal courts already have to issue and enforce protection orders.

Sec. 107 The bill preserves dedicated funding for fiscal years 2020 through 2024 for grants to states that have in place laws allowing the mother of a child conceived through rape to seek court-ordered termination of the parental rights of her rapist with regard to that child.

TITLE II – Improving Services for Victims

Sec. 201. The bill preserves dedicated funding for fiscal years 2020 through 2024 for grants to States, territories, and Indian Tribes for sexual assault services programs.

Sec. 202. The bill preserves dedicated funding for fiscal years 2020 through 2024 for grants to States, territories and Indian Tribes for rural domestic violence, dating violence, sexual assault, stalking, and child abuse enforcement assistance.

Sec. 203. The bill preserves dedicated funding for fiscal years 2020 through 2024 for grants to provide services for survivors with disabilities in. It includes a minor language change directing funds for capacity-building to organizations to respond to victims of domestic violence, dating violence, sexual abuse, and stalking who are people with disabilities.

Sec. 204. The bill preserves dedicated funding for fiscal years 2020 through 2024 to educate community-based organizations and other professionals on abuse in later life, enhance coordinated community response teams and advance services for older survivors of abuse. It introduces minor language changes to clarify eligibility criteria and expand who can receive training and education pursuant to grants.

TITLE III – Services, Protection, and Justice for Young Victims

Sec. 301 The Rape Prevention & Education Program authorization would be increased to $150 million under this bill, for each of fiscal years 2020 through 2024. It requires that at least 80% of funds go to States for community-based prevention activities in collaboration with State sexual assault coalitions that work on rape prevention activities.
The bill expands the categories for permitted use of funds to reflect the work grantees are engaged in that specifically addresses sexual harassment.

Sec. 302 The bill clarifies that funding under the CHOOSE program for children and youth is being provided for the core areas of VAWA—domestic violence, dating violence, sexual assault, and stalking—and that services that target youth should also incorporate youth in underserved communities. It seeks to increase funding by $10M annually, for fiscal years 2020 through 2024, to $25M annually. The bill directs that funds may also be used to clarify State or local mandatory reporting policies and practices regarding peer-to-peer dating violence, sexual assault, and stalking. The bill would include sex trafficking and bullying as elements that can be addressed with CHOOSE grants when part of a comprehensive youth violence response program.

Sec. 303 The bill improves campus grant programs, for fiscal years 2020 through 2024, to support institutions of higher education in developing and disseminating comprehensive prevention education for all students. The bill expands training for school-based personnel and campus health centers to meet the needs of young victims of violence. The bill seeks to increase funding, by $4M annually, to $16M for fiscal years 2020 through 2024.

Sec. 304 The bill provides for an enhanced penalty (up to five extra years) for stalkers of children, but it limits application of the enhancement, under certain circumstances, if the person who committed the offense is also a minor or the victim is not less than 15 nor more than 17 years of age and not more than three years younger than the person who committed the offense. The bill also requires the Attorney General, not later than one year after its enactment, to submit a report to Congress on best practices regarding the enforcement of anti-stalking laws.

TITLE IV – Violence Reduction Practices

Sec. 401 The bill clarifies that funds administered by the Centers for Disease Control and Prevention are to be appropriated for research on prevention and intervention programs whose goal is to reduce and prevent violence against adults, youth, and children. The bill also preserves dedicated funding for fiscal years 2020 through 2024 for these CDC grants.

Sec. 402 Under this bill, the SMART Prevention grants administered by the Attorney General would prioritize youth violence prevention programming that includes outcome-based evaluation, that does not duplicate existing efforts, and that has a significant focus on underserved populations. The bill restores the authorized appropriation for this program back to its originally authorized annual level of $45M, for fiscal years 2020 through 2024.
**TITLE V – Strengthening the Healthcare Systems Response**

**Sec. 501** The bill seeks to address the four “VAWA crimes”—domestic violence, dating violence, sexual assault, and stalking—across the lifespan, including addressing domestic and sexual violence experienced by older adults and children/youth. For these purposes, it preserves dedicated funding, through the Secretary of Health and Human Services (HHS), for fiscal years 2020 through 2024. It broadens the reach of grants that develop services to address the safety, medical, and mental health needs of patients, while maintaining their local focus of providing funds to State domestic and sexual violence coalitions to improve their capacity to coordinate with and support health advocates and other health system partnerships.

The bill directs HHS to focus some of its grants on training programs to improve the capacity of early childhood programs to address their responses to domestic violence, dating violence, sexual assault, and stalking. It specifies that funding for the development of culturally competent clinical trainings in the context of medical and health education shall specifically address protective factors related to labor and sex trafficking. It also authorizes the development, implementation, and evaluation of best practices, tools, and training materials for behavioral health professionals to identify and respond to the enumerated VAWA crimes and it incorporates the integration of knowledge about these crimes into professional licensing and accreditation by mental health boards.

The bill provides a portion of the funding to implement and support programming for community health centers, rural health providers and others who serve medically-underserved communities. The bill also authorizes the development of programs to improve the ability of substance use disorder treatment programs to address issues pertaining to the four VAWA crimes, and improves “data collection” regarding the VAWA crimes and their interaction with substance use disorder, coerced use of substances, and mental or behavioral health.

**TITLE VI – Safe Homes for Victims**

**Sec. 601** The bill clarifies that a “covered housing program” includes the direct loan program that provides supportive housing for the elderly and it adds five additional programs as VAWA covered programs, including housing assistance for homeless veterans and homeless veterans with special needs. The bill incorporates a definition of “covered housing provider,” for purpose of this section, which incorporates those persons and entities responsible for administration or oversight of a covered housing program, including public housing agencies, State and local governments, and Continua of Care.
The bill establishes a requirement for annual reviews by each covered housing program to ensure compliance with the housing protections established on behalf of victims of the VAWA crimes. The bill establishes a Violence Against Women Director in HUD (HUD Director), and implements data collection and oversight practices. It also prohibits covered housing providers from retaliating against persons exercising their rights or participating in processes relative to the housing protections established to benefit victims of VAWA crimes.

Sec. 603 The bill confers the right to report crimes and emergencies from one’s home and prevents landlords, homeowners, residents and occupants, guests and housing applicants from being penalized by any covered governmental entities for requesting law enforcement or emergency assistance based on criminal activity for which they (or another person) are the victim. Covered governmental entities include any municipal, county or state entities receiving federal housing and community development funding, including subgrantees of such funding. The bill authorizes grants for the development
and implementation of effective, alternative crime reduction methods to supplant punitive programs and policies, including proscribing the imposition of penalties on victims of crimes because criminal activity occurred at the property.

**Sec. 604** The bill preserves funding for fiscal years 2020 through 2024 for transitional housing grants for victims of domestic violence, dating violence, sexual assault, or stalking. It also makes such funds available to “population-specific organizations.”

**Sec. 605** The bill makes eligibility for Continuum of Care grants (McKinney-Vento Homeless Assistance Grants) to those serving homeless individuals or families and also makes such grants available for use to facilitate and ensure compliance with the provisions of VAWA that provide housing protections for victims of the VAWA crimes. The bill preserves funding for fiscal years 2020 through 2024 for collaborative grants to increase the long-term stability of victims who are homeless or at risk of becoming homeless.

**Sec. 606** The bill requires that annual public housing agency plans include copies of (1) all standardized notices issued pursuant to VAWA; (2) the VAWA emergency transfer plan; and (3) all memoranda of understanding with other covered housing providers to facilitate emergency transfers. In addition to descriptions already required under existing law, the bill also requires that the annual housing agency plans include descriptions of all training and support services offered to staff of the public housing agency relative to VAWA crimes and the implementation of VAWA’s housing protections.

**TITLE VII – Economic Security for Victims**

**Sec. 701** The bill makes a series of findings pertaining to the prevalence of sexual violence, domestic violence and intimate partner violence, stalking, workplace homicides, firearm deaths, and the presence of firearms in domestic violence situations; the negative effects of domestic violence on the workplace and on the autonomy, liberty, and security of survivors; the cost of intimate partner violence and its effect on workplace productivity; the prevalence of economic abuse; and the need for additional responses to assist survivors.

**Sec. 702** The bill reauthorizes the National Resource Center on Workplace Responses to Assist Victims of Domestic and Sexual Violence, and increases its authorization to $2M annually for fiscal years 2020 through 2024. The bill also extends grant authority to assist victims of sexual harassment and extends the provision of information and assistance by the Resource Center to victim service providers.
Sec. 703 The bill provides that State unemployment compensation shall not be denied to an individual who voluntarily separates from employment if such separation is attributable to the individual being a victim of sexual or other harassment, or a survivor of domestic violence, dating violence, sexual assault, or stalking. The bill sets forth the types of documentation that shall be considered to establish eligibility for unemployment compensation. The bill also requires that States streamline their procedures for documenting eligibility for unemployment compensation by victims and survivors.

The bill provides for the training of unemployment compensation personnel and personnel of the Temporary Assistance for Needy Families (TANF) program, regarding these new provisions. It authorizes the Secretary of Labor to award grants for the development and dissemination of a model training program and technical assistance relative to sexual and other harassment, domestic violence, dating violence, sexual assault and stalking for unemployment compensation and TANF personnel, including at the State, tribal, and local levels. The bill authorizes $1 M for fiscal year 2020 for development of the model training program and $12M for fiscal years 2020 through 2024 for grants to States, tribal, and local agencies.

The bill ensures that this section does not supersede any Federal, State or local law, agreement, program, or plan that provides greater unemployment benefit insurance to survivors, and preempts any State or local laws, collective bargaining agreements, or employment benefits programs or plans that diminish the guarantees under this bill. The bill also provides for effective dates for implementation of this section and for extensions of the effective dates for States that would need to amend their laws to enable proper implementation.

Sec. 704 The bill directs the Secretary of Health and Human Services, in consultation with the Secretary of Labor, to conduct a study on the barriers that survivors experience, throughout the United States, in maintaining economic security, as a result of issues related to domestic violence, dating violence, sexual assault, and stalking. The bill requires the issuance of recommendations to ensure successful implementation of provisions to ensure the economic security of survivors.

Sec. 705 The Comptroller General is directed to carry out a GAO study, to be completed 18 months from enactment of the bill, on the effects of domestic violence, dating violence, sexual assault, or stalking on survivors’ ability to continue their enrollment in institutions of higher education and their ability to repay their student loans. Among other things, the study would assess the ability of survivors to establish or maintain financial independence from their abusers.
Sec. 706 The bill directs various agencies to coordinate and provide a national public outreach and education campaign to raise public awareness of the workplace impact of domestic violence, dating violence, sexual assault, and stalking; the resources and rights available for survivors; and best practices on prevention. The bill also directs that the Secretary of Labor and the Secretary of Health and Human Services conduct a study on the status of workplace responses to employees who experience domestic violence, dating violence, sexual assault, or stalking and their access to supportive resources and economic security. The bill authorizes appropriations to carry out this section as may be necessary for fiscal years 2020 through 2024.

Sec. 707 This section provides for severability, should any portions of this bill later be held unconstitutional.

TITLE VIII – Homicide Reduction Initiatives

Sec. 801 For purposes of the criminal code in Title 18, the bill updates the definition of “intimate partner” and clarifies the meaning of “misdemeanor crime of domestic violence.” The definition of intimate partner is updated to include a dating partner or former dating partner. Sec. 801 also clarifies that a misdemeanor crime of domestic violence includes an offense that is a misdemeanor under municipal law. The bill defines a misdemeanor crime of stalking as an offense that involves taking an action which causes, attempts to cause, or would reasonably be expected to cause emotional distress by harassment, intimidation, or surveillance of another person. In order to be considered to have been convicted of a misdemeanor crime of stalking, the convicted individual must have been offered basic due process guarantees.

Sec. 802 The bill prohibits persons previously convicted of misdemeanor stalking from possessing firearms and it makes it unlawful for a person to sell or transfer a firearm or ammunition to any person they believe, or have reasonable cause to believe, has been convicted of misdemeanor stalking. The bill prohibits respondents to ex parte protection orders from possessing firearms, as long as these individuals have appropriate due process opportunities to respond to the protection order. A person subject to a court order that restrains such a person from intimidating or dissuading a witness from testifying in court is also a prohibited possessor. The bill also prohibits a person from selling or transferring a firearm or ammunition to any person they believe or have reasonable cause to believe is subject to a protection order, including an ex parte protection order or an order that restrains the person from intimidating or dissuading a witness from testifying in court.
TITLE IX – Safety for Indian Women

Sec. 901 The bill makes a number of findings regarding the extraordinarily high rates of murder committed and violent crimes perpetrated against American Indian and Alaska Native women.

Sec. 902 The bill authorizes $3M, per fiscal year, for 2020 through 2024, for the Tribal Access Program, to enhance the ability of tribal government entities to enter information into and obtain information from Federal criminal information databases. This repurposes funding allocated under VAWA 2005 to create a tribal sex offender and protection order registry.

Sec. 903 The bill amends 25 USC 1304 to add sexual violence, stalking, trafficking, obstruction of justice, assaults against law enforcement and corrections officers, and domestic violence against children to the scope of criminal conduct that can be prosecuted in tribal courts against non-Indians who commit a crime in Indian country, if the crime occurs within the territory of a participating tribe (i.e., one that provides certain due process guarantees), including any participating tribes in the State of Maine. The Indian Civil Rights Act currently recognizes “special tribal domestic violence jurisdiction” over domestic violence offenses committed against Indians in Indian Country. The jurisdiction in this section is termed “special tribal criminal jurisdiction.” Under existing law, non-Indians can be prosecuted in tribal court for domestic violence, dating violence, or a criminal violation of a protection order.

The bill amends the definition of domestic violence to reach violence committed against a victim who is a child under the age of 18 or an elder. This section also reaffirms inherent tribal criminal jurisdiction over: assault of a law enforcement or correctional officer; obstruction of justice; sex trafficking; sexual violence; and stalking. The bill authorizes grants to Tribal governments to create a pilot project to allow up to five Indian tribes in Alaska to implement special tribal criminal jurisdiction and, for that specific purpose, to redefine Indian country to include certain lands in Alaska. The bill authorizes $5M per year for each of fiscal years 2020 through 2024.

TITLE X – Office on Violence Against Women

Sec. 1001 The bill updates the name of the office in the Department of Justice charged with implementing VAWA, from the “Violence Against Women Office” to the “Office on Violence Against Women,” and adds to the jurisdiction of the Office the VAWA reauthorization bills passed in 2005 and 2013, as well as the current reauthorization. The bill clarifies that the Office on Violence Against Women must not be subsumed under any other grant-making office within the U.S. Department of Justice.
TITLE XI – Improving Conditions for Women in Federal Custody

Sec. 1101 The bill directs the Director of the Bureau of Prisons (BOP) to establish an office to determine the placement of prisoners. The office would be required to place prisoners as close to their children as possible. The bill prohibits segregated housing for prisoners who are pregnant, or in post-partum recovery. The bill also requires the BOP to hold parenting classes for prisoners who are primary caretaker parents. It requires training for corrections officers and BOP employees to learn to identify trauma among prisoners and to learn how to refer them to health professionals accordingly. The BOP is directed to furnish proper health care for all prisoners, including access to a gynecologist, and to provide shampoo, toothpaste, toothbrushes and other hygienic products, at no cost, for prisoners. The Director of the BOP would also be required to issue regulations pertaining to sex-appropriate strip-searches and the use of restrooms by correctional officers that are reserved for prisoners of the opposite sex. The bill prevents the Director of the BOP from prohibiting an eligible prisoner who is a primary caretaking parent or is pregnant from participating in a program of residential substance abuse treatment because, prior to their commitment to the BOP, the prisoner failed to disclose their substance abuse problem. The bill requires implementation of these provisions not later than two years from enactment.

Sec. 1102 The bill directs the BOP to establish, no later than 270 days from enactment, a pilot program to permit women incarcerated in the BOP and the children born to such women during incarceration to reside together while the prisoner serves a term of imprisonment in a separate housing wing of the prison. Any inmate who is pregnant at the beginning of the term of imprisonment in BOP would be eligible to apply for the program. Inmates would be selected to participate for up to 30 months, unless released from custody earlier. The bill directs the development of an offender risk and needs assessment system particular to the health sensitivities of federally incarcerated pregnant women and mothers; the development of recommendations for recidivism reduction programs and productive activities; and ongoing research and data analysis to determine whether revisions or updates to the program are appropriate. The bill directs annual reporting to Congress regarding progress in implementation of the program. The bill would authorize $10,000,000 per fiscal year, for 2020 through 2024.

TITLE XII – Law Enforcement Tools to Enhance Public Safety

Sec. 1201 The bill requires the National Instant Criminal Background Check System (NICS) to notify law enforcement when a person subject to a domestic violence order of protection or who has been convicted of a misdemeanor crime of domestic violence or stalking fails a background check after three business days and if the prohibited person
has taken possession of the firearm. The appropriate agencies for notification are the relevant FBI field office and local, State and Tribal law enforcement.

**Sec. 1202** The bill requires the Attorney General, within 24 hours after a person fails a Brady background check due to a domestic violence protective order or conviction for a misdemeanor crime of domestic violence or stalking, to issue a report to State, local, or tribal law enforcement and prosecutors in the jurisdiction where the person sought to acquire the firearm, or to law enforcement authorities and prosecutors in the person’s state of residence.

**Sec. 1203** The bill authorizes the Attorney General to use existing authority to deputize Special Assistant U.S. Attorneys in at least 75 jurisdictions, including tribal jurisdictions, with high rates of firearm-involved intimate partner violence, to enforce or assist the U.S. Attorneys’ offices in prosecuting persons who have violated certain federal firearms prohibitions. It also allows the deputization of State, tribal, territorial and local prosecutors and law enforcement officers for the purpose of enhancing the work of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in responding to intimate partner violence. The bill also requires ATF field offices and U.S. Attorney’s Offices to appoint domestic violence points of contact to expedite requests for assistance from State, tribal, territorial and local law enforcement. It authorizes such funds as are necessary to carry out this section.

**TITLE XIII – Closing the Law Enforcement Consent Loophole**

**Sec. 1301** The bill makes it unlawful for a person, while acting under color of law, to knowingly engage in a sexual act with an individual who is under arrest, in detention or otherwise in the actual custody of any Federal law enforcement officer. The bill establishes that, in such a prosecution, it shall not be a defense that the other individual consented to the sexual act. A person found guilty of this offense may be imprisoned for up to 15 years. The bill also authorizes the Attorney General to make grants to States, Tribes and territories that have in effect laws prohibiting a person charged with unlawfully engaging in a sexual act while acting under color of law, and which foreclose the defense of consent to such an act by the victim. The bill authorizes $5M for each of fiscal years 2020 through 2024.

**TITLE XIV – Other Matters**

The bill preserves funding for fiscal years 2020 through 2024 for the following: National Stalker and Domestic Violence Reduction (**Sec. 1401**), Federal Victim Assistants Reauthorization (**Sec. 1402**), Child Abuse Training Programs for Judicial Personnel and Practitioners Reauthorization (**Sec. 1403**), Sex Offender Management (**Sec. 1404**).
Court-Appointed Special Advocate Program (Sec. 1405), Rape Kit Backlog (Sec. 1406), and Sexual Assault Forensic Exam Program Grants (Sec. 1407).
What happens if VAWA isn’t renewed before it “expires?”

This is a watershed moment. Women across the country are calling for accountability and change. They have been standing up, speaking out, marching, and voting in record numbers to say enough. The National Task Force to End Sexual and Domestic Violence (NTF) and our supporters across the nation says it’s time for Congress to get serious about ending violence against women. And Congress can do this by reauthorizing the Violence Against Women Act (VAWA) with meaningful improvements.

Congress cannot simply change the dates on the existing funding in VAWA. Survivors are demanding more. Reauthorization of the Violence Against Women Act needs to increase investments in evidence-based prevention and enhance survivors’ access to safety and justice. Legislation has been introduced in the House that would do this. Now is not the time to back down.

VAWA grant programs were last reauthorized in 2013 for a five year period, ending Sept. 30, 2018. The Fiscal Year 2019 continuing resolution extended VAWA’s authorization until December 7th. While the goal is to reauthorize VAWA before it expires, we recognize that VAWA is a complex bill and Congress may not have sufficient time to pass a bipartisan bill with the necessary improvements before the expiration date. In order to ensure the resulting bill improves investments in prevention and includes enhancements to better meet the identified needs of victims and survivors, a limited delay in reauthorizing VAWA is acceptable.

Some VAWA programs and services have been funded for Fiscal Year 2019 in already-passed appropriations bills and the balance are included in the continuing resolution currently funding the rest of the government. Because both VAWA and the continuing resolution expire simultaneously, VAWA will be funded for the length of the next spending bill once a new spending bill is passed funding DOJ programs. For the time being, VAWA funding is not under threat.

As with other laws, only the VAWA grant program authorizations expire - the underlying law and all the provisions that are not tied to specific funding levels do not expire. All legal protections for victims and survivors continue, including protections in federally-subsidized housing, special tribal jurisdiction, and protections for immigrant victims. Grant conditions that protect survivor confidentiality and safety remain intact. Also as with other laws, appropriators can continue to fund VAWA without authorization while Congress works toward passing a reauthorization that clearly centers survivors and improves access to justice and safety.

For more information, email NTF4VAWA@gmail.com
An Act

To promote pro bono legal services as a critical way in which to empower survivors of domestic violence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Pro bono Work to Empower and Represent Act of 2018” or the “POWER Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Extremely high rates of domestic violence, dating violence, sexual assault, and stalking exist at the local, State, tribal, and national levels and such violence or behavior harms the most vulnerable members of our society.

(2) According to a study commissioned by the Department of Justice, nearly 25 percent of women suffer from domestic violence during their lifetime.

(3) Proactive efforts should be made available in all forums to provide pro bono legal services and eliminate the violence that destroys lives and shatters families.

(4) A variety of factors cause domestic violence, dating violence, sexual assault, and stalking, and a variety of solutions at the local, State, and national levels are necessary to combat such violence or behavior.

(5) According to the National Network to End Domestic Violence, which conducted a census including almost 1,700 assistance programs, over the course of 1 day in September 2014, more than 10,000 requests for services, including legal representation, were not met.

(6) Pro bono assistance can help fill this need by providing not only legal representation, but also access to emergency shelter, transportation, and childcare.

(7) Research and studies have demonstrated that the provision of legal assistance to victims of domestic violence, dating violence, sexual assault, and stalking reduces the probability of such violence or behavior reoccurring in the future and can help survivors move forward.

(8) Legal representation increases the possibility of successfully obtaining a protective order against an attacker, which prevents further mental and physical injury to a victim and his or her family, as demonstrated by a study that found that 83 percent of victims represented by an attorney were
able to obtain a protective order, whereas only 32 percent of victims without an attorney were able to do so.

(9) The American Bar Association Model Rules include commentary stating that "every lawyer, regardless of professional prominence or professional workload, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer".

(10) As leaders in their legal communities, judges in district courts should encourage lawyers to provide pro bono resources in an effort to help victims of such violence or behavior escape the cycle of abuse.

(11) A dedicated army of pro bono attorneys focused on this mission will inspire others to devote efforts to this cause and will raise awareness of the scourge of domestic violence, dating violence, sexual assault, and stalking throughout the country.

(12) Communities, by providing awareness of pro bono legal services and assistance to survivors of domestic violence, dating violence, sexual assault, and stalking, will empower those survivors to move forward with their lives.

SEC. 3. DISTRICT COURTS TO PROMOTE EMPOWERMENT EVENTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for a period of 4 years, the chief judge, or his or her designee, for each judicial district shall lead not less than one public event, in partnership with a State, local, tribal, or territorial domestic violence service provider or coalition and a State or local volunteer lawyer project, promoting pro bono legal services as a critical way in which to empower survivors of domestic violence, dating violence, sexual assault, and stalking and engage citizens in assisting those survivors.

(b) DISTRICTS CONTAINING INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—During each 2-year period, the chief judge, or his or her designee, for a judicial district that contains an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) shall lead not less than one public event promoting pro bono legal services under subsection (a) of this section in partnership with an Indian tribe or tribal organization with the intent of increasing the provision of pro bono legal services for Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, and stalking.

(c) REQUIREMENTS.—Each chief judge shall—

(1) have discretion as to the design, organization, and implementation of the public events required under subsection (a); and

(2) in conducting a public event under subsection (a), seek to maximize the local impact of the event and the provision of access to high-quality pro bono legal services by survivors of domestic violence, dating violence, sexual assault, and stalking.

SEC. 4. REPORTING REQUIREMENTS.

(a) REPORT TO THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than October 30 of each year, each chief judge shall submit to the Director of the Administrative Office of the United States Courts a report detailing
each public event conducted under section 3 during the previous fiscal year.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than January 1 of each year, the Director of the Administrative Office of the United States Courts shall submit to Congress a compilation and summary of each report received under subsection (a) for the previous fiscal year.

(2) REQUIREMENT.—Each comprehensive report submitted under paragraph (1) shall include an analysis of how each public event meets the goals set forth in this Act, as well as suggestions on how to improve future public events.

SEC. 5. FUNDING.

The Administrative Office of the United States Courts shall use existing funds to carry out the requirements of this Act.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.