

BACKGROUND PAPER 95-2

DOMESTIC VIOLENCE

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DOMESTIC VIOLENCE

INTRODUCTION

Domestic violence is not a new phenomenon: it began when humans first developed intimate relationships and shared dwellings. Legal and social pressure condemning violence in the home, however, is relatively new. Early British common law, upon which the American legal system is based, allowed men to beat their wives, provided that a husband used a rod no thicker than his thumb, and declared children as the legal property of their fathers. Until lawmakers began to add pertinent provisions to state statutes late in the 20th century, violence in the home was not specifically prohibited by law.

For decades, Nevada statutes were relatively silent on this issue. The laws that did exist were usually not beneficial to wives or children. For example, from 1865 until 1975, *Nevada Revised Statutes* (NRS) 123.230 gave husbands complete and absolute control over the community property of a marriage; from 1911 to 1985, NRS 200.180 allowed a charge of "excusable homicide by misadventure" when death occurred because "a parent is moderately correcting his child"; and from 1967 to 1987, NRS 200.373 provided a defense for a husband accused of raping his wife.

As women began to accumulate more political power, particularly with the civil rights and women's movements of the 1960s, laws began to punish persons who commit violence in the home. In Nevada, statutes defining and prohibiting child abuse were initially added in 1965; 14 years later, provisions specifically assisting battered women appeared. Both issues are now consistent topics of discussion within the Nevada Legislature.

This paper begins with an outline of data illuminating the problem of domestic violence in American society and in Nevada communities. It continues with a summary of current state laws addressing domestic violence and a review of the actions on this issue in the past two sessions of the Nevada Legislature. Also included is an examination of recent legislation passed by the United States Congress and other state legislatures. The paper concludes with a list of 1995 bill drafts concerning this issue and a brief synopsis of anti-domestic violence activities and organizations throughout Nevada. Appendix A lists informational materials available in the Research Library of the Legislative Counsel Bureau (telephone: 687-6827). Also attached are seven other appendices that provide additional data.

This background paper concentrates on the issue of violence committed by men against the women with whom they are intimate. Although the term "domestic violence" includes child abuse as well as all brutality committed within a familial or intimate

relationship, regardless of the gender of the perpetrator or victim, these topics are outside the scope of this particular paper. Child abuse is best handled as a separate topic, and the overwhelming majority of domestic violence cases consist of men attacking women. The U.S. Justice Department reports that wives are the most frequent victims of fatal family violence.

For additional information about child abuse or other types of domestic violence not mentioned in this paper, the reader may wish to contact the government agencies or nonprofit advocacy groups involved with these issues. Nevada legislators may direct the Research Division of the Legislative Counsel Bureau (LCB) to assist them in obtaining such service.

BACKGROUND DATA

In April 1993, the Family Violence Prevention Fund released the following findings from its national survey about domestic violence:

- Approximately 34 percent of Americans have witnessed domestic violence, whereas only 19 percent have witnessed robberies or assaults on public streets.
- Domestic violence is the leading cause of serious injury to women, more than automobile accidents and assaults by strangers combined. Four million women are battered each year.
- The Federal Bureau of Investigation estimates that a domestic beating occurs every 9 seconds.
- Domestic violence is a learned behavior, usually as a child in an abusive home. The American Medical Association estimates that each year 3.3 million children observe spousal abuse.

A special report on June 23, 1994, in the *Reno Gazette-Journal* provided national, statewide, and local information about domestic violence, including the following:

- Ninety-five percent of the victims of spousal abuse are women.
- Nationally, around 5 million women are beaten by their boyfriends or husbands annually. Approximately four women are killed by a male intimate partner each day.
- Most batterers are violent against multiple domestic targets, including spouses, children, parents, and pets. The majority of people in abusive relationships were abused as children.

- Ninety-three percent of battered women are willing to overlook the first beating by their partners. However, domestic violence is repetitive, and 50 percent of the batterers who receive therapy will continue their violent behavior. Women who leave an abusive relationship are vulnerable to continuing or increased abuse. Ex-husbands commit 35 percent of the reported cases of violence; husbands, only 9 percent. About three-fourths of the women murdered by their abusers were killed after they left the relationship.
- A scientific survey sponsored by the *Reno Gazette-Journal* found that 82 percent of Nevadans believe that spousal abuse is a very or somewhat serious problem in this state; 51 percent personally know a victim of spousal abuse; and less than half of the male respondents know where to send victims for help, compared to almost two-thirds of the female respondents.

The pollsters also asked the respondents to choose one of the following proposals as the more important method of addressing spousal abuse: increasing the penalty for those convicted or making it easier to arrest suspected batterers. Over 73 percent of the surveyed Nevadans were divided evenly on this question. Another 19 percent stated that both proposals were important. Only five percent said neither were important.

The two most recent annual reports from the Nevada Network Against Domestic Violence provide the following data:

- In fiscal year 1993, domestic violence programs statewide received 29,670 contacts for assistance; in fiscal year 1994, the total number of contacts was 37,695, an increase of 27 percent.
- Of these amounts, 16,524 (56 percent) were first-time contacts in 1993; 22,866 (61 percent), in 1994. The number of first-time contacts increased 38 percent.
- In Clark County, the number of first-time contacts was 4,717 in 1993 and 8,085 in 1994, an increase of 71 percent. In Washoe County, the number of first-time contacts was 5,225 in 1993 and 6,431 in 1994, an increase of 23 percent.
- In Carson City and Douglas County, the number of first-time contacts was 4,162 in 1993 and 5,638 in 1994, an increase of 35 percent. In Elko County, the number of first-time contacts was 360 in 1993 and 497 in 1994, an increase of 38 percent. Throughout the rest of the state, the number of contacts was 2,060 in 1993 and 2,215 in 1994, an increase of 8 percent.
- Domestic violence programs in every county of the state reported receiving contacts for assistance; the number of such contacts increased from 1993 to 1994 in all

counties except seven (Esmeralda, Humboldt, Lander, Lincoln, Mineral, Nye, and Pershing).

- In 1994, domestic violence victims in Nevada represented both genders, all ages, and every race. The vast majority, however, were female and Caucasian. Most were between 18 and 64 years of age.

Copies of the network's statewide statistical reports for fiscal years 1993 and 1994 are enclosed as Appendix B.

CURRENT NEVADA LAW

This section of the paper cites and summarizes the provisions of NRS that address domestic violence.

- NRS 3.223, "Jurisdiction of family courts." States that the family court and the justices' court have concurrent jurisdiction over the issuance of protective orders. (Provision was added to NRS in 1991.) Recently, the Nevada Supreme Court ruled in *City of Las Vegas v. Municipal Court* (Adv. Op. No. 121, August 10, 1994) that municipal courts, in addition to the district and justices' courts, have the jurisdiction to enforce temporary protective orders.
- NRS 33.017 through 33.100, "Orders For Protection Against Domestic Violence." Defines "acts which constitute domestic violence," specifies the requirements for issuing a protective order, and outlines the penalties for violating an order. Among other provisions, these sections state that a protective order, temporary or extended, may be granted by a court if an act of domestic violence has occurred or is threatened. The granting of an order is not dependent on the filing of an action to dissolve the marriage. A temporary order may be applied for over the telephone if the alleged batterer is in custody, does not require notice to be provided to the adverse party, and is valid for 30 days. An extended order may be granted after a hearing of which the adverse party is notified and is valid for not more than 1 year. A person who violates a protective order is guilty of a misdemeanor, unless a more severe penalty is provided for the action taken. If the order is breached by a violent physical act, specific penalties must be imposed, including imprisonment, fines, reimbursement for medical expenses, and participation in professional counseling. (Provisions concerning temporary orders added in 1979; additional provisions added in 1985.)
- NRS 48.061, "Effects of domestic violence." Allows the admission of evidence and expert testimony concerning domestic violence under certain circumstances. Such information may be used to determine if a person killed another in self-defense or if a person is excepted from criminal liability because an act was committed under

threats or menaces causing fear of substantial bodily harm. (Known as the Battered Woman Syndrome defense, this provision was added in 1993.)

- NRS 49.295, "Husband and wife: General rule of privilege; exceptions." Allows a spouse to testify in a criminal proceeding in which the other spouse is charged with committing a crime against the spouse's person or property or a child of either. (Provision added in 1971.)
- NRS 122.060, "Fees." Subsection 4 requires the collection of a \$12 fee for each marriage license issued and the deposit of these fees in the Account for Aid for Victims of Domestic Violence in the State General Fund. Effective July 1, 1996, the fee is raised to \$15. (Provision added in 1981.)
- NRS 125.480, "Best interest of child; preferences; determination by court." Subsection 4, paragraph c, requires the court, when determining the best interest of a child who is the subject of a custody consideration, to consider whether the person seeking custody has committed domestic violence (as defined in NRS 33.018) against the child, a parent of the child, or any other person living with the child. (Provision added in 1991.)
- NRS 171.1225, "Peace officer to provide information to suspected victims of domestic violence." Requires a peace officer investigating an act of domestic violence to provide the victim with certain information and a written statement, the contents of which are specified in this statute, outlining the victim's rights under the law. The failure of a peace officer to comply with this statute is not a defense in a criminal prosecution of domestic violence and cannot be considered as negligence or a cause for any civil action against the officer. The statute also defines "act of domestic violence" as certain actions committed against the perpetrator's spouse, blood relative, current or former housemate, child, or grandchild. (Provision added in 1989.)
- NRS 171.136, "When arrest may be made." Subsection 2, paragraph e, authorizes the arrest on any day and at any time of the day or night of a person for a misdemeanor charge of committing battery upon the suspect's spouse and causing bodily harm. (Provision added in 1985.)
- NRS 171.137, "Domestic violence: When arrest required; report required; compilation of statistics." Specifies that a peace officer must arrest an alleged domestic batterer (unless mitigating circumstances exist; such circumstances are not defined), allows such an arrest up to 4 hours after the actual incident, and requires the officer to submit a report. The Department of Motor Vehicles and Public Safety is required to compile statistics and other information from these reports to create a public record concerning the enforcement of this statute.

(Provision added in 1985.) The reports for 1992 and 1993 are attached to this paper as Appendix C.

- NRS 178.484, "Right to bail before conviction; surrender to court of passport." Subsection 3 prohibits the admission to bail of a person arrested for battery upon certain family members until 12 hours after the arrest. (Provision added in 1985.)
- NRS 200.373, "Sexual assault of spouse by spouse." Allows the prosecution of a spouse for raping the other spouse, if the assault was committed by force or threat of force. (Provision added in 1987.)
- NRS 200.481, "Battery: Definitions; penalties." Subsection 2, paragraph a, allows the sentence for battery to include the requirement to participate in and complete an anti-abuse counseling program, if the victim is the batterer's current or former spouse, blood relative, current or former housemate, child, or grandchild. (Provision added in 1985.)
- NRS 217.400 through 217.460, "Assistance To Victims Of Domestic Violence." Creates the Account for Aid to Victims of Domestic Violence, specifies to whom and how funds from the account are distributed, and requires the administrator of the state's Division of Child and Family Services to make a comprehensive report to each session of the Nevada Legislature about the activities and effectiveness of grant recipients. (Most provisions added in 1981; NRS 217.445, "Expenditure of grant must be approved by division," added in 1983.)

To supplement this section, a copy of "The Legal System: How To Get Help" is included as Appendix D. The chapter is from *Domestic Violence: A Handbook for Victims and Professionals*, published by the Nevada Commission for Women in October 1993. Written by Nevada's Office of the Attorney General, the chapter details the legal recourse currently available in this state to a domestic violence victim.

RECENT DOMESTIC ABUSE LEGISLATION IN NEVADA

In the index for the bills and resolutions approved by the 1977 Session of the Nevada Legislature, the term "domestic violence" does not appear. Beginning in 1979, however, the term has been in the index for each session. This section of the paper reviews the actions taken by the past two Nevada Legislatures to address domestic violence.

1991 Session

Six bills addressing domestic violence were introduced during the 1991 Legislative Session. Legislation that did not pass included Assembly Bill 734, which would have

created the office of the advocate for domestic violence victims and appointed a commissioner to issue temporary protective orders, and Senate Bill 468, which would have defined child abuse or neglect as domestic violence and authorized verbal applications for temporary protective orders.

Following are summaries of the successful 1991 bills:

- Assembly Bill 269 increased the fee to obtain a marriage license from \$11 to \$19 (excluding the clerk's fee) and increased from \$7 to \$10 the portion of the fee earmarked for programs to assist victims of domestic violence. On July 1, 1994, the domestic violence portion increased to \$12, and on July 1, 1996, the portion will increase to \$15.
- Assembly Bill 743 made various changes relating to domestic relations proceedings. Any person who violates an injunction or restraining order for protection against domestic violence is guilty of a misdemeanor, unless a more severe penalty is prescribed by law. If the violation is accompanied by a violent physical act, the court must fine the person \$1,000 or require the performance of a minimum of 100 hours of community service; sentence the offender to 5 days to 6 months in the county jail; order reimbursement to the victim for the costs of enforcing the order and for all medical expenses incurred because of the violent act; and order the participation in a counseling program at the convicted's expense.

The court is also required, in cases involving child custody, to consider any child abuse by a person seeking custody as an element in determining the best interests of the child.

- Senate Bill 395 added one district court judge to the Second (Washoe County) Judicial District and six to the Eighth (Clark County) Judicial District, stating that the new justices serve as family court judges. Domestic violence is one of the areas of jurisdiction for the family courts.

1993 Session

During the 1993 Session, five bills concerning domestic violence were introduced. One of the two bills that did not pass would have made it illegal to falsely accuse, during a divorce proceeding, a partner of battery (A.B. 625). The other would have determined the amount of money to be allocated for grants (A.B. 431); however, this provision was included in one of the successful bills (S.B. 274). Following are summaries of the domestic violence legislation approved in 1993:

- Assembly Bill 540 authorized expedited procedures for the issuance of a temporary restraining order for protection against domestic violence. A court is permitted to consider specific facts communicated by telephone to determine whether a

temporary order may be granted. The court must confirm with the law enforcement agency that the applicant is an alleged victim and the alleged perpetrator is in custody. If approved, the order may be transmitted to a facsimile machine at the facility where the alleged perpetrator is being held.

This bill addressed concerns that a victim of domestic violence may not have sufficient time to submit the affidavit required by existing law and, thus, may be unable to obtain a restraining order before the alleged perpetrator is released from custody.

- Assembly Bill 637 amended the statutes concerning admissibility of evidence in judicial proceedings. Evidence of, and expert testimony concerning, domestic violence are now admissible under certain circumstances. Such information may be used when determining whether a person killed another in self-defense or is excepted from criminal liability because an act was committed under threats or menaces causing fear of substantial bodily harm.

This bill recognized the influence of domestic violence upon the actions of its victims, commonly called "battered woman syndrome," and expressly provided for its consideration in certain judicial proceedings.

- Senate Bill 274 transferred the administration of the Account for Aid to Victims of Domestic Violence to the Division of Child and Family Services from the Division of Mental Health and Mental Retardation. The bill also revised the formula for allocating grants from the account by setting the threshold for per capita distribution to apply to counties with a population of 14,000 or more.

Another measure passed by the 1993 Session also assists victims of domestic violence. Assembly Bill 199 created the crime of stalking and aggravated stalking. Stalking is defined as a willful or malicious course of conduct, without lawful authority, that would cause a reasonable person to feel terrorized, frightened, intimidated, or harassed. The first offense is a misdemeanor (up to 6 months in jail); subsequent offenses are gross misdemeanors (up to 1 year in jail). Aggravated stalking is a felony (1 to 6 years in prison) and is defined as stalking coupled with a threat that places a person in reasonable fear of death or substantial bodily harm.

ACTION AT THE FEDERAL AND STATE LEVELS

In the past 2 years, the U.S. Congress and legislatures in most states have considered numerous measures to combat domestic violence. This section summarizes those activities.

Federal Legislation

As part of the voluminous "Violent Crime Control and Law Enforcement Act of 1994," Congress enacted the "Violence Against Women Act." Incorporated as Title IV, the act contains several domestic violence provisions, including:

- Creating a toll-free telephone number that battered spouses can call for information about shelters and other social services in their area;
- Making protective orders issued in one state valid in all others;
- Providing federal criminal penalties for people who travel across state lines with the intent to injure their spouses;
- Permitting the domestic violence victim to testify in court regarding the danger posed by the pretrial release of the defendant;
- Establishing judicial education programs about domestic abuse; and
- Authorizing grants for shelters and innovative community programs on family violence, and to encourage arrest policies.

The following domestic violence provisions are also in the crime bill but not included in Title IV:

- Sec. 320921, "First Time Domestic Violence Offender Rehabilitation Program"; and
- Sec. 110401, "Prohibition Against Disposal of Firearms to, or Receipt of Firearms by, Persons Who Have Committed Domestic Abuse."

As with much of the crime bill, some of the domestic violence provisions may be precluded from implementation by a lack of appropriation. Appendix E contains copies of the Violence Against Women Act and the two miscellaneous sections.

Initiatives in Other States

According to the National Conference of State Legislatures (NCSL), almost 500 bills addressing domestic violence were introduced in state legislatures in 1993, and one-fifth were adopted. The NCSL noted that "[l]egislation in every state has brought about a significant increase in requests for restraining orders and a substantial increase in arrests." Following are summaries of some of the states' activities:

- Eight states enhanced the criminal penalties for repeated domestic abuse or harassment. In California, one of the 15 domestic violence bills adopted requires

a minimum of 48 hours of imprisonment for a person arrested on a domestic violence charge who is currently on probation for a previous domestic abuse offense.

- Nine states increased their definitions of domestic abuse. Among these states, Arkansas added "exploitation" to the list of abusive acts, and Rhode Island expanded the scope of its domestic violence laws by including persons who shared an intimate sexual relationship with their attackers within the 6 months preceding the attack. Five other states amended their spousal rape laws to be similar to their statutes concerning nonspousal rape.
- Five states created or expanded state commissions charged with addressing education about and treatment of domestic violence. Four states required the consideration of domestic violence in deciding child custody cases. Four states also created or improved their collection of statistics concerning domestic violence.
- Two states, including Nevada, legally recognized battered woman syndrome. By the end of 1993, a total of 13 states allowed the submission of such evidence in certain murder cases.
- Several states initiated various means of funding domestic violence programs. Illinois waived the filing fee for petitions for protective orders. Minnesota extended unemployment compensation benefits to people who leave their jobs to be protected from domestic abuse.

Included as Appendix F is a copy of the June 1994 *NCSL Legisbrief* titled "Fighting Family Violence," which discusses these and other legislative measures adopted in 1993 to address domestic violence. The document also notes the bill numbers for various legislative actions in other states.

According to NCSL, five states adopted a number of domestic violence bills in 1994. Following is NCSL's summary of these actions:

States are learning that violence begins at home and they are treating it as serious crime. Colorado just passed five domestic violence bills, the largest of which mandates arrest for violation of a restraining order and jail time for a second and subsequent offense. One of Maryland's three new domestic violence laws says that a person convicted for a third time of a "crime of violence" may be subject to a mandatory life sentence without possibility of parole. Michigan has 14 new domestic violence laws that provide victims and law enforcement with a variety of important new tools for prevention and prosecution of domestic violence. New York just enacted the omnibus Family Protection and Domestic Violence Intervention Act of 1994. Virginia has a series of new laws that bring stiffer penalties for domestic violence convictions.

In addition, the 1994 California Legislature adopted two domestic violence bills, including the "Battered Women Protection Act."

Readers may wish to contact NCSL (telephone: 303/830-2200) or individual states for copies of these measures. The Research Division can obtain copies for legislators at their request.

Model Code

In 1994, the *Model Code on Domestic and Family Violence* was published by the National Council of Juvenile and Family Court Judges, the Nation's oldest and largest judicial membership organization, which provides direction and education on legal issues affecting children and families. The model code is a comprehensive document that provides suggested statutory language and bill drafting assistance for addressing the intricate legal issues of family violence. It also contains a commentary in each section, which explains the goal of, and reasoning behind, the particular provision.

Recently, the Reno-based Council received a 5-year, \$1.1 million grant to implement the model code nationwide. Among other projects, the Council will assist states with the code's implementation, maintain a data base of all state domestic violence laws, and monitor proposed legislation. Copies of the model code are available from the Council (telephone: 784-4463).

Appendix G contains a comparison of the model code with existing Nevada laws.

CONCLUDING REMARKS

As of December 29, 1994, the bill draft request (BDR) list from the Legislative Counsel Bureau's Legal Division included the following BDRs addressing domestic violence:

- BDR 11--210, requested by Legislator, "revises provisions regarding domestic violence";
- BDR 15--330, requested by Senator James, "makes stalking a spouse during divorce proceedings a felony";
- BDR 15--453, requested by Nevada Judges Association, "further define 'stalking' statute";
- BDR 3--455, requested by Nevada Judges Association, "permit violations of temporary protective orders to be brought into Municipal Courts";

- BDR 3--939, requested by Assemblyman Anderson, "allow police officers to issue emergency restraining orders under certain circumstances";
- BDR 14--1002, requested by Assemblywoman Giunchigliani, "makes various changes regarding domestic violence";
- BDR 3--1072, requested by the Administrative Office of Court and the Judicial Council of Nevada, "clarify jurisdiction of temporary orders and expand parties notified when such orders are issued";
- BDR--1226, requested by Assemblyman Batten, "makes various changes relating to prevention of domestic violence";
- BDR 11--1227, requested by Assemblyman Batten, "prohibit person convicted of spousal abuse from being awarded custody of children in event of divorce";
- BDR 15--1228, requested by Assemblyman Batten, "provides for 'truth in sentencing' for persons convicted of murder, rape, robbery or spousal battery"; and
- BDR--1260, requested by Senator Adler, "provide mandatory prison term of repeat stalking offenders."

During the 1995 Session, other bills addressing domestic violence may be introduced that are not easily recognizable by the general description provided in the BDR list.

Numerous groups throughout Nevada are involved in this issue. The primary statewide organization is the Nevada Network Against Domestic Violence (NNADV), 2100 Capurro Way, Suite E, Sparks, Nevada 89431; telephone: 358-1171. For specific assistance groups within each county, see Appendix H.

In the past year, interested organizations and government agencies have sponsored many programs, conferences, and workshops throughout the state to raise awareness about, and discuss possible solutions for, domestic violence. Among other activities, the Nevada Supreme Court mandated a day of special training on this issue for all of the state's judges in October 1993, a statewide hotline (1-800-500-1556) for assistance was established, and the *Domestic Violence* booklet was reissued. In December 1994, newspapers, television news programs, and radio stations concentrated on domestic abuse and other violent behavior in this state. All indications are that domestic violence will be one of the major issues for the 1995 Session of the Nevada Legislature.

APPENDIX A

CURRENT INFORMATION SOURCES AVAILABLE THROUGH LCB'S RESEARCH LIBRARY

Articles from the *Las Vegas Review-Journal*

(In chronological order)

"Nevada courts struggle to cope with rise of domestic violence," October 17, 1993.

"Judges urged to protect families," October 19, 1993.

"Victims advocate new tool for justice," December 13, 1993.

"Inflated domestic-violence numbers don't help women," August 21, 1994.

Articles from the *Reno Gazette-Journal*

(In chronological order)

"Battered defense nets acquittal," April 8, 1993.

"Domestic violence: Survey looks at scope in U.S.," April 20, 1993.

"Special report on domestic violence," June 23, 1994.

"Officials target domestic violence," December 11, 1993.

"Murderer wins early release on battered woman argument," August 24, 1994.

"Lawyer: Truth takes beating in domestic violence debate," December 15, 1994.

Articles from other periodicals

(In chronological order)

Biemesderfer, Susan C. "Begging Their Pardon." *State Legislatures*. February 1992.

Henson, Maria. "Vows of Violence." *State Government News*. March 1993.

"Child and Spouse Abuse." *Outlook: From the State Capitals*. February 14, 1994.

"Surgeon General, Attorney General call for united effort to end domestic violence" and
"Terror in the home." *Lahontan Valley News*. March 14, 1994.

"National Conference on Family Violence." *Juvenile and Family Justice Today*. Spring 1994.

"Maryland Women Unite Behind Domestic Violence Act of 1994." *CAWP News & Notes*. Summer 1994.

Bailey, Christine. "Model Legislation Addressing Family Violence." *Nevada Lawyer*. July 1994.

"Wives Are The Most Frequent Victims In Family Murders," "Domestic Violence 'Is Your Business,'" and "Most Women Don't Die Trying To Escape Abusive Relationships." *Crime Victims Digest*. July 1994.

"Domestic Abuse Bills Gain Momentum In Legislatures." *The National Law Journal*. July 4, 1994.

"Patterns of Abuse." *Newsweek*. July 4, 1994.

"Domestic Violence Laws Abound." *Outlook: From the State Capitals*. July 18, 1994.

"Truths About Spouse Abuse: Battered Men Juggle Statistics, Too." *Newsweek*. August 8, 1994.

Haynes, William D. and Bernard, Linda D. "The Federal Violence Against Women Act: An Urban Perspective." *Michigan Bar Journal*. September 1994.

"Crime Bill Alters The System's Handling Of Family Violence." *Criminal Justice Newsletter*. October 3, 1994.

Other Materials

(In alphabetical order)

Bachman, Ronet, Ph.D. *Violence Against Women: A National Crime Victimization Survey Report*. U.S. Department of Justice. January 1994.

Courts and Communities: Confronting Violence in the Family. Reno, Nevada: The National Council of Juvenile and Family Court Judges. Undated.

Dawson, John M. and Langan, Patrick A., Ph.D. *Murder in Families*. Bureau of Justice Statistics Special Report. U.S. Department of Justice. July 1994.

Family Violence: State-Of-The-Art Court Programs. Reno, Nevada: National Council of Juvenile and Family Court Judges. 1992.

Family Violence: A Model State Code and Appendices. Reno, Nevada: National Council of Juvenile and Family Court Judges. 1994.

Hart, Barbara J., Esq. *State Codes on Domestic Violence: Analysis, Commentary and Recommendations.* Reno, Nevada: National Council of Juvenile and Family Court Judges. 1992.

Harrell, Adele. *The Impact of Court-Ordered Treatment for Domestic Violence Offenders.* Paper presented at the 44th annual meeting of The American Society of Criminology. November 4-7, 1992.

Legislative packet concerning the battered woman defense. National Clearinghouse for the Defense of Battered Women. April 1993.

Nevada Supreme Court. *Court Mandated Training Day On Domestic Violence.* September 14, 1994. Includes copies of related newspaper articles and the court order establishing the program.

Nevada Supreme Court. *Domestic Violence Workshop.* Videotape. August 16, 1994.

Synergy: The Newsletter of the Resource Center on Domestic Violence, Child Protection and Custody. The National Council of Juvenile and Family Court Judges. 1994.

APPENDIX B

STATEWIDE STATISTICS Nevada Network Against Domestic Violence

Statistics compiled from quarterly reports submitted by DV programs in Nevada
July 1992 - June 1994

NEVADA NETWORK AGAINST DOMESTIC VIOLENCE

Statewide Statistics**

July '92 - June '93

Total Number of Contacts: 29,670
 First Time: 16,524
 Repeat: 13,146

Bednights

	Adults	Bednights	Children	Bednights	Total Adults & Children	Total Bednights
Shelter	621	7,342	730	9,447	1,351	16,789
Shelter Ser.	28	159	22	99	50	258
Safe Homes						
Em.Motel	206	319	205	305	411	624
Trans.Housing	24	1,341	41	2,306	65	3,647
Carry Over	25	253	26	252	51	505
Totals	904	9,414	1,024	12,409	1,928	21,823

Total Number of Primary Victims: 16,524

Age:

	Female	Male
00-12	33	14
13-17	226	13
18-29	5,673	358
30-44	6,126	610
45-64	1,811	164
65+	139	32
Unknown	1,212	113
Total	15,220	1304

Race:

Caucasian	12,236
Black	868
Hispanic	1,209
Native American	520
Asian/Pacific Islander	305
Mixed Race	3
Unknown	1,383
Total	16,524

Location:

Carson	3,687
Churchill	153
Clark	4,717
Douglas	485
Elko	360
Esmeralda	17
Eureka	8
Humboldt	81
Lander	34
Lincoln	39
Lyon	116
Mineral	117
Nye	48
Pershing	34
Storey	13
Washoe	5,225
White Pine	227
Unknown	1,163
Out of State	

Total 16,524

*These statistics were compiled from quarterly reports submitted by DV programs in Nevada

NEVADA NETWORK AGAINST DOMESTIC VIOLENCE

Statewide Statistics**

Fiscal Year 1993/1994

July '93 - June '94

Total Number of Contacts: 37695

First Time: 22866

Repeat: 14829

Bednights

	Adults	Bednights	Children	Bednights	Total Adults & Children	Total Bednights
Shelter	686	8895	816	11435	1502	20330
Shelter Ser.	64	320	61	169	125	489
Safe Homes	7	97	14	155	21	252
Em.Motel	276	495	223	623	499	1118
Trans.Housing	19	1316	35	2409	54	3725
Carry Over	<u>28</u>	<u>292</u>	<u>730</u>	<u>313</u>	<u>58</u>	<u>606</u>
Totals	1,080	11,415	1,179	15,104	2,259	26,519

Total Number of Primary Victims: 22866

Age:

	Female	Male
00-12	106	54
13-17	360	26
18-29	7696	544
30-44	8863	895
45-64	2608	250
65+	172	37
Unknown	<u>1147</u>	<u>109</u>
Total:	20,952	1,914

Race:

Caucasian	16302
Black	1758
Hispanic	2440
Native American	616
Asian/Pacific Islander	398
Mixed Race	0
Unknown	<u>1352</u>
Total	22866

Location:

Carson	4569
Churchill	192
Clark	8085
Douglas	1069
Elko	497
Esmeralda	16
Eureka	26
Humboldt	71
Lander	28
Lincoln	37
Lyon	233
Mineral	65
Nye	43
Pershing	24
Storey	64
Washoe	6431
White Pine	234
Unknown	1166
Out of State	<u>18</u>
Total	22866

*These statistics were compiled from quarterly reports submitted by DV programs in Nevada
8/94

APPENDIX C

**DOMESTIC VIOLENCE REPORT
NEVADA DIVISION OF INVESTIGATION**

Statistics on Arrests and Mitigating Circumstances
January 1992 - December 1993

NEVADA
DIVISION OF INVESTIGATION
DOMESTIC VIOLENCE REPORT

DATE PERIOD: JANUARY 1 THROUGH DECEMBER 31, 1992

AGENCY	ARRESTS		MITIGATING CIRCUMSTANCE							TOTAL
	MALE	FEMALE	A	B	C	D	E	F	G	
BOULDER PD	1	0	0	0	0	1	0	0	0	2
CALIENTE PD	0	0	0	0	0	0	0	0	0	0
CARLIN PD	4	0	2	2	3	3	0	0	4	18
CARSON SO	86	15	8	6	2	45	0	2	11	175
CHURCHIL SO	16	1	13	8	16	15	3	1	18	91
DOUGLAS SO	109	27	19	31	85	73	3	6	77	430
ELKO PD	65	17	6	3	3	36	0	2	14	146
ELKO SO	25	11	5	4	2	9	0	1	9	66
ESMERALDA SO	1	1	0	0	0	0	0	0	0	2
EUREKA SO	6	1	0	1	1	2	0	0	2	13
FALLON PD	7	3	3	1	1	0	0	0	2	17
F B I	0	0	0	0	0	0	0	0	0	0
GABBS PD	0	0	0	0	0	0	0	0	0	0
HENDERSON PD	435	131	34	19	9	173	1	8	47	857
HUMBOLDT SO	0	0	0	0	0	0	0	0	0	0
LANDER SO	18	4	3	3	5	1	0	0	2	36
LINCOLN SO	0	0	0	0	0	0	0	0	0	0
LOVELOCK PD	11	2	0	1	0	0	0	0	0	14
LV METRO PD	2468	601	7	48	11	338	4	8	58	3543
LYON SO	0	0	0	0	0	0	0	0	1	1
MINERAL SO	1	0	0	10	1	0	0	1	0	13
NLV PD	241	40	29	24	7	247	2	10	89	689
NYE SO	0	0	0	0	0	0	0	0	0	0
PERSHING SO	3	1	0	0	0	2	0	0	2	8
RENO PD	506	99	67	30	17	349	3	42	133	1246
SPARKS PD	66	18	6	0	0	33	0	6	34	163
STOREY SO	8	0	0	0	0	1	0	0	0	9
UNLV PD	0	0	0	0	0	0	0	0	0	0
UNR PD	1	0	0	0	0	0	0	0	0	1
WASHOE SO	287	103	6	26	2	96	3	40	20	583
WELLS PD	0	0	0	0	0	0	0	0	1	1
WHITE PINE SO	25	0	2	9	8	3	5	0	6	58
WINNEMUCCA PD	23	3	1	0	1	10	1	1	8	48
YEARINGTON PD	1	5	11	2	3	4	0	4	21	51
NEVADA PARKS	0	0	0	0	0	0	0	0	0	0
FEDERAL PARKS	0	0	0	0	0	0	0	0	0	0
NEVADA P & P	0	0	0	0	0	0	0	0	0	0
Grand Totals:	4414	1083	222	228	177	1441	25	132	559	8281

MITIGATING CIRCUMSTANCES CODES

A-Victim Does Not Wish To Prosecute
B-No Physical Evidence/Visable Injury
C-Mutual Combatants
D-Suspect Gone On Arrival

E-No Physical Contact/Violence
F-Station Report/Delayed Report
G-Other

NEVADA
DIVISION OF INVESTIGATION
DOMESTIC VIOLENCE REPORT

DATE PERIOD: JANUARY 1, 1993 THROUGH DECEMBER 31, 1993

AGENCY	ARRESTS		MITIGATING CIRCUMSTANCE							TOTAL
	MALE	FEMALE	A	B	C	D	E	F	G	
BOULDER PD	0	0	0	0	0	0	0	0	0	0
CARLIN PD	3	1	1	1	1	5	0	0	4	16
CARSON SO	187	32	14	15	7	102	0	5	16	378
CHURCHILL SO	23	2	7	4	3	10	0	3	3	55
DOUGLAS SO	107	28	17	139	70	109	9	5	31	515
ELKO PD	45	6	1	1	1	7	0	2	5	68
ELKO SO	34	9	2	2	2	10	0	2	10	71
ESMERALDA SO	0	0	0	0	0	0	0	0	0	0
EUREKA SO	10	2	1	1	1	2	0	1	2	20
FALLON PD	0	0	1	0	0	0	0	0	1	2
F B I	0	0	0	0	0	1	0	0	0	1
HENDERSON PD	417	132	48	50	12	192	0	10	34	895
HUMBOLDT SO	0	0	0	0	0	0	0	0	0	0
LANDER SO	23	4	2	0	1	2	0	0	1	33
LINCOLN SO	0	0	0	0	0	0	0	0	0	0
LOVELOCK PD	14	2	0	1	2	4	0	0	0	23
LV METRO PD	2904	676	6	81	12	493	0	3	58	4233
LYON SO	0	0	0	0	0	0	0	0	0	0
MINERAL SO	2	1	0	7	1	2	1	0	0	14
NLV PD	375	75	25	43	24	422	0	19	59	1042
NYE SO	0	0	0	0	0	0	0	0	0	0
PERSHING SO	1	0	0	0	0	0	0	0	0	1
RENO PD	395	74	59	46	27	393	2	43	57	1096
SPARKS PD	77	22	10	3	9	54	0	5	16	196
STOREY SO	4	1	0	0	0	0	0	0	0	5
UNLV PD	0	0	0	0	0	0	0	0	0	0
UNR PD	0	0	0	0	0	0	0	0	0	0
WASHOE SO	337	111	1	41	2	96	0	37	7	632
WELLS PD	0	0	0	0	0	0	0	0	0	0
WHITE PINE SO	16	4	0	8	5	4	1	1	5	44
WINNEMUCCA PD	25	5	2	5	1	13	0	2	6	59
YERINGTON PD	8	8	13	1	0	6	5	5	10	56
NEVADA PARKS	0	0	0	0	0	0	0	0	0	0
FEDERAL PARKS	0	0	0	0	0	0	0	0	0	0
NEVADA P & P	0	0	0	0	0	0	0	0	0	0
MESQUITE	11	4	0	0	0	3	0	1	0	19
Grand Totals:	5018	1199	210	449	181	1930	18	144	325	9474

MITIGATING CIRCUMSTANCES CODES

A-Victim Does Not Wish To Prosecute	E-No Physical Contact/Violence
B-No Physical Evidence/Visible Injury	F-Station Report/Delayed Report
C-Mutual Combatants	G-Other
D-Suspect Gone On Arrival	

APPENDIX D

DOMESTIC VIOLENCE: A HANDBOOK FOR VICTIMS AND PROFESSIONALS

Nevada Commission for Women
October 1993

THE LEGAL SYSTEM: HOW TO GET HELP

A. INTRODUCTION

It is against the law for anyone to beat or physically hurt another person, no matter how the two people are related. There are a number of legal steps you can take to protect yourself from further abuse and to bring your abuser to justice. This chapter will briefly explain how to do these things. The laws of this state are contained in the Nevada Revised Statutes (hereafter cited as NRS).

There are basically two kinds of courts: criminal court and civil court.

Criminal court deals with people who have committed crimes, such as assault or battery. In the state of Nevada, for example,

criminal assault is the attempt to commit a violent injury upon the person of another while having the ability to do so. NRS 200.471. In Nevada, the crime of battery is the use of force or violence upon the person of another. NRS 200.481.

The police can arrest anyone who commits a crime and the District Attorney of each county or City Attorney in Las Vegas, Reno, or Sparks can prosecute the offender. There must always be sufficient evidence on which to base charges. If the offender pleads guilty or is convicted of the crime, he can be sentenced to jail, probation, counselling, and/or payment of fine.

Civil court handles non-criminal matters such as divorce and child custody. It can order people to do or not to do certain things. For example, it may order a parent to pay child support. It may also order your abuser to vacate your shared premises, or it may order that your children not be removed from the state without approval of the court. If its orders are not obeyed, the judge can hold the violator in "contempt of court" and either fine or jail him.

The following three sections describe in greater detail the laws affecting victims of domestic violence and how to press criminal charges as well as to use civil process to obtain relief. Before taking any legal action, it is important to understand the advantages and disadvantages of each alternative course. Also, it is important to know that the legal process can be a very lengthy, confusing, and frustrating one. However, you are entitled to its protection and assistance, and the threat of arrest or being in contempt of court can be a very effective way to prevent your abuser from continuing his violence toward you.

B. ORDERS FOR PROTECTION AGAINST DOMESTIC VIOLENCE

Nevada recognizes domestic violence as a serious crime. In 1985, the legislature created a new type of order, the order for Protection Against Domestic Violence. NRS 33.017-33.100. It involves a civil court proceeding that specifically addresses domestic violence situations.

1. What is an Order of Protection?

An Order of Protection is a written court order, signed by a judge, which requires an abusive household or family member to do or not to do certain things. There are basically two kinds of protection orders: Temporary Orders and Extended Orders.

A Temporary Order is an emergency order which may be obtained just on your testimony and court appearance; that is, your abuser is not present to tell his side of the story. Before issuing a Temporary Order of Protection, the judge must find that there is good cause to grant it without first notifying the abuser. The judge must also evaluate each individual remedy separately (for example, that you will likely be harmed if the abuser knows you were seeking legal protection). Temporary Orders of Protection can last for up to thirty (30) days.

By law, temporary orders are to be available at no cost, without need for a lawyer, and within one day of application. The court clerk or other personnel should provide information regarding the procedures and be able to assist you in completing the necessary paperwork.

In a temporary order, the judge can order any or all of the following:

- ☐ **Forbid any further threats, harassment, or injury.**
- ☐ **Order the abuser not to enter, or to vacate (leave), the shared home for a period of time.**
- ☐ **Prohibit the abuser from entering the victim's place of employment, school, or other specified place.**
- ☐ **Award temporary legal custody (if the court has jurisdiction over the children).**
- ☐ **Other relief the court considers necessary in an emergency situation.**

An Extended Order of Protection is available when all the legal requirements of notifying the abuser of the intended action have been satisfied. There will be an opportunity for both parties to present their cases in a hearing. If you apply for an Extended Order, the Temporary Order will remain in effect until the hearing is held. The remedies that may be requested for an Extended Order are in addition to those that are available for Temporary Orders. Extended Orders can last for up to one year.

An Extended Order may:

- ☐ **Limit or prohibit communication with you and your children.**
- ☐ **Award custody and the payment of child support.**
- ☐ **Establish visitation arrangements and require supervision by a third party if necessary.**
- ☐ **Order the abuser to make rental or mortgage payments.**
- ☐ **Order the abuser to pay all or part of costs and fees incurred in obtaining the protection order.**

Please note that it is always up to the judge how long any particular order will last.

2. Who Can Get an Order of Protection?

Who is Covered? Any household or family member who is abused by another household or family member is eligible to seek a protective order. Spouses, ex-spouses, persons living together, persons who formerly lived together, children of either of the persons who have lived together, stepchildren, parents, persons who share a child, or other persons related by blood or marriage are all protected by the law.

Who is Not Covered? Persons in close relationships who have never lived in the same household or who do not have a child in common are not covered by this law.

3. What is Domestic Violence?

Domestic violence usually means acts of physical violence (slapping, punching, choking, etc.), but it can also mean threatening, coercive, or harassing conduct; interference with the personal liberty of the victim; or forcible entry of the victim's residence against her will.

4. When Can You Get an Order of Protection?

Any person who is abused by a household or family member can ask the court for an Order of Protection. A parent or guardian can ask for one for a child, an elderly person, or anyone who is unable because of a disability to ask for one themselves.

You do not have to file any other civil action or pursue criminal charges in order to obtain an Order of Protection.

The victim or person requesting the Order should have enough evidence of abuse to convince the judge that domestic violence has taken place.

Evidence includes such things as:

- ☐ The victim's statements as to the abuse inflicted.
- ☐ Hospital or doctor's reports of injuries.
- ☐ Dated photographs of injuries.
- ☐ Police reports.
- ☐ Statements from other family members, neighbors, or others who saw or heard the abuse.
- ☐ Weapons used.
- ☐ Torn or bloody clothing or broken household items.
- ☐ Pictures of damaged furnishings and of the house or room in disarray.

The more evidence you have, the more likely the judge will believe you and grant you the legal remedies you need.

5. Where Can You Get an Order of Protection?

An Order of Protection can be obtained in two ways:

(1) In District Court in connection with such actions as divorce, separation, child support, or parentage actions. If you are filing for divorce, ask your attorney to file for an Order of Protection as well.

(2) In District or Justice Court as an action by itself. This is where you want the Order of Protection in order to have the legal system help stop the violence against you.

To a degree, this procedure will change as the Family Court system becomes effective in 1993. To obtain information about where and when to file for protective orders, you should contact your local court clerk whose phone number will be located in the white pages under your community. You may also contact the organizations listed at the end of this publication for assistance.

6. What Do You Do After You Have an Order of Protection?

If the judge in civil court grants you an Order of Protection, obtain several copies and keep one with you at all times. If your abuser was not present at the proceeding, make certain that he has received a copy of the Order.

If your abuser violates the Order by hurting you again, by coming onto your property when the order forbids him to do so, or by violating another provision of the order, call your local law enforcement agency, the police or sheriff's department. Show them the Order of Protection. If you do not have a copy to show them, they can try to verify its existence through their police radio (this will only work if a copy has been provided to the dispatcher of that agency).

Nevada law mandates arrest by any law enforcement officer who witnesses a violation of any provision of a protective order. However, an officer will not arrest a person subject to a protective order unless that person has notice of the order. If the officer does not make an arrest, ask the officer to inform your abuser that he is now on notice of the provisions of the Order and that any violation will, in the future, result in his arrest. Obviously, if your abuser commits another crime while violating the protective order, he may be arrested for that criminal conduct in itself.

Under Nevada law, if the abuser violates an Order for Protection, he has committed a crime, a misdemeanor, punishable by jail and/or a fine. Alternatively, he can be found in contempt of court for violating a court order. This can also result in a fine or imprisonment.

If you decide that you want to go back with your husband or partner after the court has issued an Order of Protection forbidding his entry into your home, it is important that you go back to court to modify the Order. Request that the

order to vacate or not enter the residence be stricken but that the remedies forbidding his further abuse to you remain in effect. If you do not modify the Order and your abuser violates it by being in the house with your permission, the police and the court may be less willing to extend their protection to you again in the future.

C. LAW ENFORCEMENT

1. Acts of Domestic Violence

Every act which is a crime if a stranger does it, is also a crime if committed by your spouse or partner. This includes such offenses as assault, battery, kidnapping, false imprisonment, and sexual assault, among others. NRS 33.018.

Domestic violence resulting in any of these crimes may be a misdemeanor, gross misdemeanor, or felony. The designation and the possible penalties will be the same, whether the offender is a stranger, partner, or spouse. For example, domestic violence will be a felony battery if the unlawful use of violence or force is committed with a deadly weapon. If the battery is not committed with a deadly weapon but there is substantial bodily harm, it will be a gross misdemeanor; if no substantial bodily harm results, it will be a misdemeanor. NRS 200.481.

In general, a misdemeanor is punishable by imprisonment in the county jail for not more than six months, and/or by a fine of not more than \$1,000. NRS 193.150. Most gross misdemeanors are punishable by imprisonment in the county jail for up to one year and/or by a fine of up to \$2,000. NRS 193.140. The general provision for felony punishments requires imprisonment in the state prison for no less than one year or more than six years and/or a fine of not more than \$5,000. NRS 193.130. However, higher

punishments may be specified for particular crimes by statute. If your abuser is arrested and charged with a crime, you can ask the District Attorney or City Attorney prosecuting the criminal case what the potential penalties are.

2. Mandatory Arrest

Calling the police will set the criminal justice system in motion. The police can help you in the following ways:

- ☐ They can protect you from immediate danger and help you, or you and your children, to safety.
- ☐ They can arrest your attacker which may lead to his conviction.

In Nevada, law enforcement agencies operate in certain circumstances under a mandatory arrest policy by state law. This means that if the police have sufficient reason to believe that a person, **within the preceding four (4) hours**, committed an act of domestic violence or spousal battery, the officer is required to arrest that person, absent mitigating circumstances. Contacting the police sets this process in motion.

The officer is required NOT to base his decision regarding an arrest on his perception of the willingness of you or other witnesses to testify or otherwise participate in any related court proceeding. Your signature on a complaint is not necessary.

If the officer has reason to believe that the battery was a mutual battery committed by both people involved, he must attempt to determine which person was the **primary physical aggressor**. Once the officer makes that determination, he is required to arrest that person.

In determining whether a person is a primary physical aggressor the officer is required to consider:

- (a) prior domestic violence involving either person,
- (b) the relative seriousness of the injuries inflicted upon each of the persons involved,
- (c) the potential for future injury,
- (d) whether one of the alleged batteries was committed in self-defense,
- (e) any other factor which helps the officer decide which person was the primary physical aggressor

If your attacker is arrested at the time of the incident, the laws of this state are designed to give you time to leave, seek help, or otherwise ensure your safety. If he has been arrested for domestic violence, he will not be released from jail or be able to bail out of jail for a minimum of 12 hours. NRS 178.484

3. Citizen's Arrest/Criminal Complaint

Citizen's Arrest. In spite of the state's mandatory arrest law, law enforcement officers may sometimes be reluctant to make an arrest if they did not see your attacker hurt you, they cannot determine the primary physical aggressor, if there are no visible injuries, or if they cannot determine whether or not a crime has been committed. **You are always entitled to make a citizen's arrest.** Make the citizen's arrest only in the presence of a law enforcement officer. Be aware that your abuser may also attempt to make a citizen's arrest. You both may be taken into custody.

To make a citizen's arrest, you must ask the police to give you the appropriate forms to sign. Tell the police, "I want to make a citizen's arrest!" Once you have told the police what happened to you and have signed the papers, the police are required to take the offender into custody.

Criminal Complaint. If the police do not arrest your attacker or take the case to the local prosecutor in order to obtain a complaint and an arrest warrant, you may still file a criminal complaint against your attacker. Ask your local law enforcement agency for the procedure to file a complaint. Once you know where and when to go, take with you as much evidence as possible (medical records, photographs, etc.). In such a case, you must be willing to follow through with the charges and prepared to testify. Be persistent. The prosecutor's office then determines whether to go forward with the case.

If charges are filed, a warrant will be issued for your abuser's arrest. Check with your local complaint officer concerning how soon this may occur.

4. Police Reports

Whether or not your attacker is arrested, make sure a police report is completed. The police are required by state law to complete a report every time they respond to a domestic violence call. This is the official record of what happened to you. It contains the dates and names of people involved, what happened, and how the dispute was handled, including whether an arrest was made, and, if not, why not. It is important to make this report, even if you don't plan to press charges at the time, because:

- ☐ You can use it to substantiate your story if you do decide to press charges against your attacker;
- ☐ It provides a past history which may assist you in gaining the help of the police and prosecutor if you are threatened again; and
- ☐ It can be used to show good cause for the court to grant a Protection Order.

Be sure you write down the name and badge number of the officer, as well as the police report number. This will make it easier for you to get a copy of the police report later.

5. Victim Information

Peace officers are required by law to give victims of domestic violence certain information. Insist on getting this information, as you not only have a right to it, but your safety and the safety of your children may depend on it.

The information that you should receive from the officer includes availability of a shelter or other services, information on how to seek an Order for Protection against any further threats or acts of violence and how to file a complaint if the abuser has not been arrested, as well as other information to help you through this time. The officer should also give you a written summary of your legal rights. If this is not done, contact your local law enforcement agency or domestic abuse program.

D. THE CRIMINAL COURT PROCESS

After the abuser has been arrested and the prosecutor's office determines to proceed with the case, the criminal court process begins. Your attacker is now the defendant in a criminal prosecution.

1. Arraignment

The first appearance in court for the defendant will normally be the arraignment. This will usually occur within 48 hours of arrest if the defendant is still in jail. If the defendant has been released on his own recognizance or has posted a bond or cash bail, the arraignment will usually

occur within a short time period after his release from jail. You will not be officially notified of this court appearance.

At the arraignment, the defendant will be informed of the charges against him and must enter a plea of guilty, not guilty, or no contest. If the defendant enters a plea of guilty or no contest, the judge may impose sentence immediately or may set a later date for sentencing. If the defendant enters a plea of not guilty, a trial date will be set within sixty (60) days from the arraignment.

2. Procedures Before Trial

In certain cases, the defendant will have a right to a preliminary hearing before a judge prior to trial. At this hearing the judge will determine whether there is sufficient evidence for the prosecutor to proceed with the case. In all cases, the prosecuting attorney must evaluate the case to determine whether there is sufficient evidence to take it to trial. Because domestic violence is a criminal act against the state or city, the decision to prosecute will be made by the prosecutor. Your cooperation, or lack of cooperation, as a victim is but one factor in determining whether to prosecute. The decision to prosecute is not made by the victim.

If there are any plea bargain discussions, the prosecutor should inform the victim in order to consider what she might think, but remember, only the prosecution can bring charges, and only the prosecution can drop charges. The decision to prosecute is always up to the prosecutor.

3. Trial

Once the trial date has been set, the victim will be subpoenaed to testify in court against the defendant. A subpoena requires that you appear in court to testify. As a victim/witness in a criminal proceeding, you do not need to be

represented by an attorney. A victim may, however, seek independent legal advice if she can afford to hire a lawyer or otherwise qualifies for legal aid.

The victim will usually be contacted by the City Attorney's or District Attorney's office before trial to discuss the facts and circumstances surrounding the incident. If you are not contacted by the prosecutor or witness/victim advocate prior to trial, contact them. Make an appointment to discuss the trial. Bring to the meeting any medical reports and pictures of the injuries to trial, if these items have not already been delivered to the prosecutor's office.

Trials for misdemeanors in Nevada will be in front of a judge without a jury. The prosecutor will present evidence to show that the defendant is guilty, and that he committed the crime which he is charged with. This evidence may include testimony of the victim, testimony of independent witnesses including police officers, as well as photographs, and medical records. The defendant can present similar evidence to show that he is innocent of the charges. The judge will consider the admissible evidence and then decide if the defendant is guilty or not guilty.

4. Sentencing

At the conclusion of the trial, the defendant will be found guilty or not guilty. If the defendant is found guilty, the judge will decide what the appropriate sentence should be. In misdemeanor cases, the judge can sentence the defendant up to six (6) months in jail and/or up to a \$1,000.00 fine. Additionally, a judge may suspend any portion of the sentence for not more than one year on a number of conditions including the requirement that the offender actively participate in a program of professional counseling at the expense of the offender. NRS 5.055(1)(c). If the defendant complies with the conditions of his suspended sentence, he will not have to serve the jail time. In gross

misdemeanor and felony cases, the penalties are potentially much higher.

Before imposing sentence the court will offer the victim an opportunity to appear personally or through a lawyer and reasonably express any views concerning the crime, the person responsible for the crime, and the impact of the crime on her and her family. This means that the victim may, but does not have to, address the court. NRS 176.015(3)

If the defendant violates a specific condition of a suspended sentence or commits a crime while on a suspended sentence, the judge can bring the defendant back into court and order the defendant to serve time in jail, if jail was originally ordered and then suspended.

APPENDIX E

VIOLENCE AGAINST WOMEN ACT OF 1994

TITLE IV of the Violent Crime Control and Law Enforcement Act of 1994

and

"Prohibition Against Disposal of Firearms to,
or Receipt of Firearms by,
Persons Who Have Committed Domestic Violence"
Section 110401 of the Violent Crime Control Act
(p. 61)

and

"First Time Domestic Violence Offender
Rehabilitation Program"
Section 320921 of the Violent Crime Control Act
(p. 62)

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 40001. SHORT TITLE

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

SEC. 40101. SHORT TITLE

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

SEC. 40111. REPEAT OFFENDERS

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

"§2247. Repeat offenders

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

(b) AMENDMENT OF SENTENCING GUIDELINES.—The Sentencing Commission shall implement the amendment made by subsection (a) by promulgating amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

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

"2247. Repeat offenders."

SEC. 40112. FEDERAL PENALTIES

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

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

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

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

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

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

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

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

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

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) **SEXUAL ABUSE.**—

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

“§ 2248. Mandatory restitution

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

“(b) SCOPE AND NATURE OF ORDER.—

“(1) DIRECTIONS.—The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

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

“(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

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

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

“(B) physical and occupational therapy or rehabilitation;

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

“(D) lost income;

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

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

“(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

“(B) A court may not decline to issue an order under this section because of—

“(i) the economic circumstances of the defendant, or

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

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

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

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

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

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

“(D) Subparagraph (A) does not apply if—

“(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

“(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

“(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

“(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

“(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

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

“(A) any Federal civil proceeding; and

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

“(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

“(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

“(c) PROOF OF CLAIM.—

“(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegate, after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegate) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

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

“(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

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

“(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

“(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed

order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

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

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

"3248. Mandatory restitution."

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2259. Mandatory restitution

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

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

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

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

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

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

"(B) physical and occupational therapy or rehabilitation;

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

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

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

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

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

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

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

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

"(A) any Federal civil proceeding; and

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

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release, or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegate) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

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

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

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

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

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

(2) **TECHNICAL AMENDMENT.**—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2289. Mandatory restriction."

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

- (1) \$500,000 for fiscal year 1996;
- (2) \$500,000 for fiscal year 1997; and
- (3) \$500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

- (1) by redesignating part T as part U;
- (2) by redesignating section 2001 as section 2101; and
- (3) by inserting after part S the following new part:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

***SEC. 2001. PURPOSE OF THE PROGRAM AND GRANTS.**

(a) **GENERAL PROGRAM PURPOSE.**—The purpose of this part is to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

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

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

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

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

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

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

"(6) developing, enlarging, or strengthening programs addressing stalking; and

"(7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

***SEC. 2002. STATE GRANTS.**

(a) **GENERAL GRANTS.**—The Attorney General may make grants to States, for use by States, units of local government, non-profit nongovernmental victim services programs, and Indian tribal governments for the purposes described in section 2001(b).

(b) **AMOUNTS.**—Of the amounts appropriated for the purposes of this part—

"(1) 4 percent shall be available for grants to Indian tribal governments;

"(2) \$500,000 shall be available for grants to applicants in each State; and

"(3) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States (not including populations of Indian tribes).

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

"(1) the funds shall be used for any of the purposes described in section 2001(b);

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

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

"(4) any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

"(d) **APPLICATION REQUIREMENTS.**—The application requirements provided in section 513 shall apply to grants made under this part. In addition, each application shall include the certifications of qualification required by subsection (c), including documentation from non-profit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2). An application shall include—

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

"(A) need for the grant funds;

"(B) intended use of the grant funds;

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

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

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 2005; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 2006.

"(e) **DISBURSEMENT.**—

"(1) **IN GENERAL.**—Not later than 60 days after the receipt of an application under this part, the Attorney General shall—

"(A) disburse the appropriate sums provided for under this part; or

"(B) inform the applicant why the application does not conform to the terms of section 513 or to the requirements of this section.

"(2) **REGULATIONS.**—In disbursing monies under this part, the Attorney General shall issue regulations to ensure that States will—

"(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

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

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

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

"(f) **FEDERAL SHARE.**—The Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

"(g) **INDIAN TRIBES.**—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(h) **GRANTEE REPORTING.**—

"(1) **IN GENERAL.**—Upon completion of the grant period under this part, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) **CERTIFICATION BY GRANTEE AND SUBGRANTEES.**—A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

"(3) **SUSPENSION OF FUNDING.**—The Attorney General shall suspend funding for an approved application if—

"(A) an applicant fails to submit an annual performance report;

"(B) funds are expended for purposes other than those described in this part; or

"(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

"SEC. 3003. DEFINITIONS.

"In this part—

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

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

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

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

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

"(6) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim;

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

"(8) the term 'victim services' means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including nonprofit, nongovernmental organizations assisting domestic violence or sexual assault victims through the legal process.

"SEC. 3004. GENERAL TERMS AND CONDITIONS.

"(a) **NONMONETARY ASSISTANCE.**—In addition to the assistance provided under this part, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State, tribal, and local assistance efforts.

"(b) **REPORTING.**—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State and for each grantee Indian tribe—

"(1) the number of grants made and funds distributed under this part;

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

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

"(4) an evaluation of the effectiveness of programs funded under this part.

"(c) **REGULATIONS OR GUIDELINES.**—Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment, the Attorney General shall publish final regulations or guidelines implementing this part.

"SEC. 3005. RAPE EXAM PAYMENTS.

"(a) **RESTRICTION OF FUNDS.**—

"(1) **IN GENERAL.**—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

"(2) **REDISTRIBUTION.**—Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

"(b) **MEDICAL COSTS.**—A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity—

"(1) provides such exams to victims free of charge to the victim;

"(2) arranges for victims to obtain such exams free of charge to the victims; or

"(3) reimburses victims for the cost of such exams if—

"(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

"(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

"(C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

"(D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

"SEC. 3006. FILING COSTS FOR CRIMINAL CHARGES.

"(a) **IN GENERAL.**—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, or unit of local government—

"(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; or

"(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of—

"(A) the period ending on the date on which the next session of the State legislature ends; or

"(B) 2 years.

"(b) **REDISTRIBUTION.**—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.

"(c) **TECHNICAL AMENDMENT.**—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 2001. Purpose of the program and grants.

"Sec. 2002. State grants.

"Sec. 2003. General definitions.

"Sec. 2004. General terms and conditions.

"Sec. 2005. Rape exam payments.

"Sec. 2006. Filing costs for criminal charges.

"PART U—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings."

"(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 32101(d), is amended—

"(1) in paragraph (3) by striking "and S" and inserting "S, and T"; and

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

"(18) There are authorized to be appropriated to carry out part T—

"(A) \$26,000,000 for fiscal year 1995;

"(B) \$130,000,000 for fiscal year 1996;

"(C) \$145,000,000 for fiscal year 1997;

"(D) \$160,000,000 for fiscal year 1998;

"(E) \$165,000,000 for fiscal year 1999; and

"(F) \$174,000,000 for fiscal year 2000."

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

SEC. 40131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

"(a) **GENERAL PURPOSE.**—There is authorized to be appropriated not to exceed \$10,000,000, for the Secretary of Transportation (referred to in this section as the "Secretary") to make capital grants for the prevention of crime and to increase security in existing and

future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

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

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

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

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

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

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

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

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

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

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

(f) **GENERAL REQUIREMENTS.**—All grants or loans provided under this section shall be subject to the same terms, conditions, requirements, and provisions applicable to grants and loans as specified in section 5321 of title 49, United States Code.

SEC. 40132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

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

(a) **AVAILABILITY OF FUNDS.**—There are authorized to be appropriated out of the Violent Crime Reduction Trust Fund, not to exceed \$10,000,000 for the Secretary of the Interior to take all necessary actions to seek to reduce the incidence of violent crime in the National Park System.

(b) **RECOMMENDATIONS FOR IMPROVEMENT.**—The Secretary shall direct the chief official responsible for law enforcement within the National Park Service to—

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

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

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

(c) **DISTRIBUTION OF FUNDS.**—Based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute the funds authorized by subsection (a) throughout the National Park System. Priority shall be given to those areas with the highest rates of sexual assault.

(d) **USE OF FUNDS.**—Funds provided under this section may be used—

(1) to increase lighting within or adjacent to National Park System units;

(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to National Park System units;

(3) to increase security or law enforcement personnel within or adjacent to National Park System units; or

(4) for any other project intended to increase the security and safety of National Park System units."

SEC. 40133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

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

“(A) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—

(1) **AVAILABILITY OF FUNDS.**—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated out of the Violent Crime Reduction Trust Fund, the Secretary may provide financial assistance to the States, not to exceed \$15,000,000, for projects or combinations thereof for the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

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

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

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

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

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

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

CHAPTER 4—NEW EVIDENTIARY RULES

SEC. 40141. SEXUAL HISTORY IN CRIMINAL AND CIVIL CASES.

(a) **MODIFICATION OF PROPOSED AMENDMENT.**—The proposed amendments to the Federal Rules of Evidence that are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the amendment made by subsection (b).

(b) **RULE.**—Rule 412 of the Federal Rules of Evidence is amended to read as follows:

***Rule 412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition**

(a) **EVIDENCE GENERALLY INADMISSIBLE.**—The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):

(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.

(2) Evidence offered to prove any alleged victim's sexual predisposition.

(b) **EXCEPTIONS.**—

(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:

(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury or other physical evidence;

(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

(C) evidence the exclusion of which would violate the constitutional rights of the defendant.

(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.

(c) **PROCEDURE TO DETERMINE ADMISSIBILITY.**—

(1) A party intending to offer evidence under subdivision (b) must—

(A) file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and

"(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.

"(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise."

(c) **TECHNICAL AMENDMENT.**—The table of contents for the Federal Rules of Evidence is amended by amending the item relating to rule 412 to read as follows:

"412. Sex Offense Cases: Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition:

"(a) Evidence generally inadmissible.

"(b) Exceptions.

"(c) Procedure to determine admissibility."

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

SEC. 40181. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

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

"SEC. 1918A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

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

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

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

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

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

"(1) \$35,000,000 for fiscal year 1996;

"(2) \$35,000,000 for fiscal year 1997;

"(3) \$45,000,000 for fiscal year 1998;

"(4) \$45,000,000 for fiscal year 1999; and

"(5) \$45,000,000 for fiscal year 2000.

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

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

"(f) **TERMS.**—The Secretary shall make allotments to each State on the basis of the population of the State, and subject to the conditions provided in this section and sections 1904 through 1909."

SEC. 40182. TRAINING PROGRAMS.

(a) **IN GENERAL.**—The Attorney General, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) **TRAINING PROGRAMS.**—The Attorney General shall ensure, to the extent practicable, that training programs developed under subsection (a) are available in geographically diverse locations throughout the country.

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

(1) \$1,000,000 for fiscal year 1996; and

(2) \$1,000,000 for fiscal year 1997.

SEC. 40183. CONFIDENTIALITY OF COMMUNICATIONS BETWEEN SEXUAL ASSAULT OR DOMESTIC VIOLENCE VICTIMS AND THEIR COUNSELORS.

(a) **STUDY AND DEVELOPMENT OF MODEL LEGISLATION.**—The Attorney General shall—

(1) study and evaluate the manner in which the States have taken measures to protect the confidentiality of communications between sexual assault or domestic violence victims and their therapists or trained counselors;

(2) develop model legislation that will provide the maximum protection possible for the confidentiality of such communications, within any applicable constitutional limits, taking into account the following factors:

(A) the danger that counseling programs for victims of sexual assault and domestic violence will be unable to

achieve their goal of helping victims recover from the trauma associated with these crimes if there is no assurance that the records of the counseling sessions will be kept confidential;

(B) consideration of the appropriateness of an absolute privilege for communications between victims of sexual assault or domestic violence and their therapists or trained counselors, in light of the likelihood that such an absolute privilege will provide the maximum guarantee of confidentiality but also in light of the possibility that such an absolute privilege may be held to violate the rights of criminal defendants under the Federal or State constitutions by denying them the opportunity to obtain exculpatory evidence and present it at trial; and

(C) consideration of what limitations on the disclosure of confidential communications between victims of these crimes and their counselors, short of an absolute privilege, are most likely to ensure that the counseling programs will not be undermined, and specifically whether no such disclosure should be allowed unless, at a minimum, there has been a particularized showing by a criminal defendant of a compelling need for records of such communications, and adequate procedural safeguards are in place to prevent unnecessary or damaging disclosures; and

(3) prepare and disseminate to State authorities the findings made and model legislation developed as a result of the study and evaluation.

(b) **REPORT AND RECOMMENDATIONS.**—Not later than the date that is 1 year after the date of enactment of this Act, the Attorney General shall report to the Congress—

(1) the findings of the study and the model legislation required by this section; and

(2) recommendations based on the findings on the need for and appropriateness of further action by the Federal Government.

(c) **REVIEW OF FEDERAL EVIDENTIARY RULES.**—The Judicial Conference of the United States shall evaluate and report to Congress its views on whether the Federal Rules of Evidence should be amended, and if so, how they should be amended, to guarantee that the confidentiality of communications between sexual assault victims and their therapists or trained counselors will be adequately protected in Federal court proceedings.

SEC. 40184. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18, United States Code, or for the commission of a similar offense, including halfway houses and psychiatric institutions.

SEC. 40185. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF RUNAWAY, HOMELESS, AND STREET YOUTH.

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

(1) by redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) by inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

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

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

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

"(1) \$7,000,000 for fiscal year 1996;

"(2) \$8,000,000 for fiscal year 1997; and

"(3) \$15,000,000 for fiscal year 1998.

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

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

"(2) the term 'street youth' means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse."

SEC. 40186. VICTIMS OF CHILD ABUSE PROGRAMS.

(a) **COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.**—

(1) **REAUTHORIZATION.**—Section 218(a) of the Victims of

Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended to read as follows:

"(a) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this subtitle—

- "(1) \$6,000,000 for fiscal year 1996;
- "(2) \$6,000,000 for fiscal year 1997;
- "(3) \$7,000,000 for fiscal year 1998;
- "(4) \$9,000,000 for fiscal year 1999; and
- "(5) \$10,000,000 for fiscal year 2000."

"(2) **TECHNICAL AMENDMENT.**—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "this chapter" and inserting "this subtitle".

"(b) **CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.**—

"(1) **REALLOCATION.**—Section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)) is amended to read as follows:

"(a) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this subtitle—

- "(1) \$750,000 for fiscal year 1996;
- "(2) \$1,000,000 for fiscal year 1997;
- "(3) \$2,000,000 for fiscal year 1998;
- "(4) \$2,000,000 for fiscal year 1999; and
- "(5) \$2,300,000 for fiscal year 2000."

"(2) **TECHNICAL AMENDMENT.**—Section 221(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13021(b)) is amended by striking "this chapter" and inserting "this subtitle".

"(c) **GRANTS FOR TELEVISED TESTIMONY.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

"(1) by amending section 1001(a)(7) (42 U.S.C. 3793(a)(7)) to read as follows:

"(7) There are authorized to be appropriated to carry out part N—

- "(A) \$250,000 for fiscal year 1996;
- "(B) \$1,000,000 for fiscal year 1997;
- "(C) \$1,000,000 for fiscal year 1998;
- "(D) \$1,000,000 for fiscal year 1999; and
- "(E) \$1,000,000 for fiscal year 2000."

"(2) in section 1402 (42 U.S.C. 3796aa-1) by striking "to States, for the use of States and units of local government in the States";

"(3) in section 1403 (42 U.S.C. 3796aa-2)—

(A) by inserting "or unit of local government" after "of a State";

(B) by inserting "and" after paragraph (1);

(C) in paragraph (2) by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (3) and (4);

"(4) in section 1404 (42 U.S.C. 3796aa-3)—

(A) in subsection (a)—

(i) by striking "The Bureau" and all that follows through "determining that" and inserting "An applicant is eligible to receive a grant under this part if—

(ii) in paragraph (1) by striking "there is in effect in such State" and inserting "the applicant certifies and the Director determines that there is in effect in the State";

(iii) in paragraph (2) by striking "such State law shall meet" and inserting "the applicant certifies and the Director determines that State law meets";

(iv) by inserting "and" after subparagraph "E";

(v) in paragraph (3)—

(I) by inserting "the Director determines that" before "the application"; and

(II) by striking "; and" and inserting a period.

(vi) by striking paragraph (4);

(vii) by striking "Each application" and inserting the following:

"(b) Each application"; and

(viii) by striking "the Bureau" each place it appears and inserting "the Director"; and

(B) by redesignating subsection (b) as subsection (c); and by striking "The Bureau" and inserting "The Director".

"(5) by striking section 1405 (42 U.S.C. 3796aa-4);

"(6) in section 1406 (42 U.S.C. 3796aa-5)—

(A) in subsection (a)—

(i) by striking "State which" and inserting "State or unit of local government that";

(ii) by striking "title" and inserting "part"; and

(iii) in paragraph (1) by striking "State"; and

(B) in subsection (b)(1) by striking "such State" and inserting "the State and units of local government in the State";

"(7) in section 1407 (42 U.S.C. 3796aa-6)—

(A) in subsection (c)—

(i) by striking "Each State" and all that follows through "effective audit" and inserting "Grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training

using grant funds) shall keep such records as the Director may require by rule to facilitate such an audit."; and

(ii) in paragraph (2) by striking "States which receive grants, and of units of local government which receive any part of a grant made under this part" and inserting "grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds)"; and

(B) by adding at the end the following new subsection:

"(d) **UTILIZATION OF PRIVATE SECTOR.**—Nothing in this part shall prohibit the utilization of any grant funds to contract with a private organization to provide equipment or training for the televising of testimony as contemplated by the application submitted by an applicant."

"(8) by striking section 1408 (42 U.S.C. 3796aa-7); and

"(9) in the table of contents—

(A) in the item relating to section 1405 by striking "Allocation and distribution of funds under formula grants" and inserting "(Repealed)"; and

(B) in the item relating to section 1408 by striking "State office" and inserting "(Repealed)".

Subtitle B—Safe Homes for Women

SEC. 40201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1994".

CHAPTER I—NATIONAL DOMESTIC VIOLENCE HOTLINE

SEC. 40211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

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

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

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

"(b) **DURATION.**—A grant under this section may extend over a period of not more than 5 years.

"(c) **ANNUAL APPROVAL.**—The provision of payments under a grant under this section shall be subject to annual approval by the Secretary and subject to the availability of appropriations for each fiscal year to make the payments.

"(d) **ACTIVITIES.**—Funds received by an entity under this section shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a private, nonprofit entity shall—

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

"(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women; and

"(4) publicize the hotline to potential users throughout the United States.

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

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

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

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

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

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

"(E) a plan for providing service to non-English speaking callers, including hotline personnel who speak Spanish; and

"(F) a plan for facilitating access to the hotline by persons with hearing impairments;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as domes-

tic violence State coalitions or recognized national domestic violence groups;

"(4) demonstrates that the applicant has a commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities; and

"(5) contain such other information as the Secretary may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) \$1,000,000 for fiscal year 1995;

"(B) \$400,000 for fiscal year 1996;

"(C) \$400,000 for fiscal year 1997;

"(D) \$400,000 for fiscal year 1998;

"(E) \$400,000 for fiscal year 1999; and

"(F) \$400,000 for fiscal year 2000.

"(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended."

CHAPTER 2—INTERSTATE ENFORCEMENT

SEC. 40231. INTERSTATE ENFORCEMENT.

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

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.

"Sec. 2262. Interstate violation of protection order.

"Sec. 2263. Pretrial release of defendant.

"Sec. 2264. Restitution.

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

"Sec. 2266. Definitions.

"§2261. Interstate domestic violence

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud and, in the course of or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner, shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case, or both fined and imprisoned.

"§2262. Interstate violation of protection order

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(A)(i) violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or

"(ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the order was issued; and

"(B) subsequently engages in such conduct, shall be punished as provided in subsection (b).

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

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case, or both fined and imprisoned.

"§2263. Pretrial release of defendant

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

"§2264. Restitution

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

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

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

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

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

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

"(B) physical and occupational therapy or rehabilitation;

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

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

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

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

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

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

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the of-

fenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

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

"(A) any Federal civil proceeding; and

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

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of the affidavit.

"(d) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (a) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(e) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

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

"(g) RESTITUTION IN ADDITION TO PUNISHMENT.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

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

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given

to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

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

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

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

"§2266. Definitions

"In this chapter—

"bodily injury" means any act, except one done in self-defense, that results in physical injury or sexual abuse.

"Indian country" has the meaning stated in section 1151.

"protection order" includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.

"spouse or intimate partner" includes—

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

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides.

"State" includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States.

"travel across State lines" does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member.

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

"110A. Domestic violence _____ 2261."

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

SEC. 40231. ENCOURAGING ARREST POLICIES.

(a) IN GENERAL.—Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40121(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 2101. GRANTS.

"(a) PURPOSE.—The purpose of this part is to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

"(b) GRANT AUTHORITY.—The Attorney General may make grants to eligible States, Indian tribal governments, or units of local government for the following purposes:

"(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations.

"(2) To develop policies and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

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

"(5) To strengthen legal advocacy service programs for victims of domestic violence.

"(6) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

7(c) ELIGIBILITY.—Eligible grantees are States, Indian tribal governments, or units of local government that—

(1) certify that their laws or official policies—

(A) encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

(B) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

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

***SEC. 2102. APPLICATIONS.**

(a) APPLICATION.—An eligible grantee shall submit an application to the Attorney General that—

(1) contains a certification by the chief executive officer of the State, Indian tribal government, or local government entity that the conditions of section 2101(c) are met or will be met within the later of—

(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

(B) 2 years of the date of enactment of this part;

(2) describes plans to further the purposes stated in section 2101(a);

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

(4) includes documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

(b) PRIORITY.—In awarding grants under this part, the Attorney General shall give priority to applicants that—

(1) do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

(2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

***SEC. 2103. REPORTS.**

Each grantee receiving funds under this part shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Attorney General may prescribe.

***SEC. 2104. REGULATIONS OR GUIDELINES.**

Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment of this part, the Attorney General shall publish final regulations or guidelines implementing this part.

***SEC. 2105. DEFINITIONS.**

(a) For purposes of this part—

(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this part; and

(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendent lite order in another proceeding.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by section 40121(b), is amended by striking the matter relating to part U and inserting the following:

PART U—GRANTS TO ENCOURAGE ARREST POLICIES

***Sec. 2101. Crimes.**

***Sec. 2102. Applications.**

***Sec. 2103. Reports.**

***Sec. 2104. Regulations or guidelines.**

***Sec. 2105. Definitions.**

PART V—TRANSITION—EFFECTIVE DATE—REPEALER

***Sec. 2201. Continuation of rules, authorities, and proceedings.**

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40121(c), is amended—

(1) in paragraph (3) by striking "and T" and inserting "T, and U"; and

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

"(19) There are authorized to be appropriated to carry out part U—

"(A) \$28,000,000 for fiscal year 1996;

"(B) \$33,000,000 for fiscal year 1997; and

"(C) \$59,000,000 for fiscal year 1998.

(d) ADMINISTRATIVE PROVISIONS.—

(1) REGULATIONS.—Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)), is amended by striking "and O" and inserting "O, and U".

(2) DENIAL OF APPLICATION.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended in the first sentence by striking "or O" and inserting "O, or U".

CHAPTER 4—SHELTER GRANTS

SEC. 4041. GRANTS FOR BATTERED WOMEN'S SHELTERS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) \$50,000,000 for fiscal year 1996;

"(2) \$60,000,000 for fiscal year 1997;

"(3) \$70,000,000 for fiscal year 1998;

"(4) \$72,500,000 for fiscal year 1999; and

"(5) \$72,500,000 for fiscal year 2000."

CHAPTER 5—YOUTH EDUCATION

SEC. 4051. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40211, is amended by adding at the end the following new section:

***SEC. 317. YOUTH EDUCATION AND DOMESTIC VIOLENCE.**

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary may, in consultation with the Secretary of Education, select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in consultation with educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers.

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

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$400,000 for fiscal year 1996.

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

SEC. 4061. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40251, is amended by adding at the end the following new section:

***SEC. 318. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.**

(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

(2) shall include representatives of pertinent sectors of the local community, which may include—

"(A) health care providers;

"(B) the education community;

- "(C) the religious community;
- "(D) the justice system;
- "(E) domestic violence program advocates;
- "(F) human service entities such as State child services divisions;

- "(G) business and civic leaders; and
- "(H) other pertinent sectors.

"(c) **APPLICATIONS.**—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) **TERM.**—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) **CONDITIONS ON PAYMENT.**—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) **GEOGRAPHICAL DISPERSION.**—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) **USE OF GRANT MONIES.**—

"(1) **IN GENERAL.**—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) **REQUIREMENTS.**—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

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

"(1) \$4,000,000 for fiscal year 1996; and

"(2) \$6,000,000 for fiscal year 1997.

"(i) **REGULATIONS.**—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section."

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

SEC. 40371. GRANTEE REPORTING.

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

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

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities

in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds."

SEC. 40372. TECHNICAL AMENDMENTS.

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

(b) **SPECIAL ISSUE RESOURCE CENTERS.**—

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

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

(A) by striking the period at the end of paragraph (6) and inserting "; including the issuance and enforcement of protection orders"; and

(B) by adding at the end the following new paragraph: "(7) Providing technical assistance and training to State domestic violence coalitions."

(c) **STATE DOMESTIC VIOLENCE COALITIONS.**—Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

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

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

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

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

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

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

"(D) collaborating with other governmental systems which affect battered women;"

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

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

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

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

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

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

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

SEC. 40381. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

(a) **REGULATIONS.**—Not later than 90 days after the date of enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses.

(b) **REQUIREMENTS.**—The regulations under subsection (a) shall require—

(1) in the case of an individual, the presentation to an appropriate postal official of a valid, outstanding protection order; and

(2) in the case of a domestic violence shelter, the presentation to an appropriate postal authority of proof from a State domestic violence coalition that meets the requirements of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) verifying that the organization is a domestic violence shelter.

(c) **DISCLOSURE FOR CERTAIN PURPOSES.**—The regulations under subsection (a) shall not prohibit the disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes.

(d) **EXISTING COMPILATIONS.**—Compilations of addresses existing at the time at which order is presented to an appropriate postal official shall be excluded from the scope of the regulations under subsection (a).

CHAPTER 9—DATA AND RESEARCH

SEC. 40301. RESEARCH AGENDA.

(a) **REQUEST FOR CONTRACT.**—The Attorney General shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice, and direct services to victims and experts on domestic violence in diverse, ethnic, social, and language minority communities and the social sciences. In setting the agenda, the Academy shall focus primarily on preventive, educative, social, and legal strategies, including addressing the needs of underserved populations.

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

(c) **REPORT.**—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 40302. STATE DATABASES.

(a) **IN GENERAL.**—The Attorney General shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of sexual and domestic violence offenses within a State.

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

(c) **REPORT.**—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committees on the Judiciary of the Senate and the House of Representatives.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—
\$200,000 for fiscal year 1996.

SEC. 40303. NUMBER AND COST OF INJURIES.

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

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

\$100,000 for fiscal year 1996.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

SEC. 40304. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) **GRANTS.**—The Attorney General may make grants to States, Indian tribal governments, and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) **DEFINITIONS.**—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"rural State" has the meaning stated in section 1501(b) of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795bb(B)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) **IN GENERAL.**—There are authorized to be appropriated to carry out this section—

(A) \$7,000,000 for fiscal year 1996;

(B) \$8,000,000 for fiscal year 1997; and

(C) \$15,000,000 for fiscal year 1998.

(2) **ADDITIONAL FUNDING.**—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 103 to accomplish the objectives of this section.

Subtitle C—Civil Rights for Women

SEC. 40301. SHORT TITLE.

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

SEC. 40302. CIVIL RIGHTS.

(a) **PURPOSE.**—Pursuant to the affirmative power of Congress to enact this subtitle under section 5 of the Fourteenth Amendment to the Constitution, as well as under section 8 of Article 1 of the Constitution, it is the purpose of this subtitle to protect the civil rights of victims of gender motivated violence and to promote public safety, health, and activities affecting interstate commerce by establishing a Federal civil rights cause of action for victims of crimes of violence motivated by gender.

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

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

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

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

(2) the term "crime of violence" means—

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

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

(e) **LIMITATION AND PROCEDURES.**—

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

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

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

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

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

"(d) A civil action in any State court arising under section 40302 of the Violence Against Women Act of 1994 may not be removed to any district court of the United States."

SEC. 40303. ATTORNEYS FEES.

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

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting "or section 40302 of the Violence Against Women Act of 1994," after "1994".

SEC. 40304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

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

Subtitle D—Equal Justice for Women in the Courts Act

SEC. 40401. SHORT TITLE.

This subtitle may be cited as the "Equal Justice for Women in the Courts Act of 1994".

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

SEC. 40411. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States (as defined in section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701)) in training judges and court personnel in the laws of the States and by Indian tribes in training tribal judges and court personnel in the laws of the tribes on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 40412. TRAINING PROVIDED BY GRANTS.

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

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

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

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

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

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

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

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

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

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

(10) the nature and incidence of domestic violence;

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

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

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

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

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

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

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

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

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

SEC. 40413. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

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

SEC. 40414. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated carry out this chapter—

\$600,000 for fiscal year 1996.

(b) **MODEL PROGRAMS.**—Of amounts appropriated under this section, the State Justice Institute shall expend not less than 40 percent on model programs regarding domestic violence and not less than 40 percent on model programs regarding rape and sexual assault.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

SEC. 40421. AUTHORIZATIONS OF CIRCUIT STUDIES, EDUCATION AND TRAINING GRANTS.

(a) **STUDIES.**—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits and to implement recommended reforms.

(b) **MATTERS FOR EXAMINATION.**—The studies under subsection (a) may include an examination of the effects of gender on—

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

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

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes in judicial proceedings;

(5) sentencing;

(6) sentencing alternatives and the nature of supervision on probation and parole;

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

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

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

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

(11) the admissibility of the victim's past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 40412 that pertain to issues within the jurisdiction of the Federal courts.

(c) **CLEARINGHOUSE.**—The Administrative Office of the United States Courts shall act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide the Administrative Office of the Courts of the United States with their reports and related material.

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

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

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

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

SEC. 40422. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services to carry out section 40421(a)—

\$500,000 for fiscal year 1996;

(2) to the Federal Judicial Center to carry out section 40421(d)—

\$100,000 for fiscal year 1996; and

(3) to the Administrative Office of the United States Courts to carry out section 40421(c)—

\$100,000 for fiscal year 1996.

Subtitle E—Violence Against Women Act Improvements

SEC. 40601. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

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

- (1) by striking "or" at the end of subparagraph (A);
- (2) by striking the period at the end of subparagraph (B) and inserting "; or"; and
- (3) by adding after subparagraph (B) the following new subparagraph:

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

SEC. 40602. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

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

- (1) by striking "or" at the end of subparagraph (B);
- (2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and
- (3) by inserting after subparagraph (C) the following new subparagraph:

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

SEC. 40603. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) **FOR VICTIMS IN SEX OFFENSE CASES.**—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section."

(b) LIMITED TESTING OF DEFENDANTS.—

(1) **COURT ORDER.**—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) **SHOWING REQUIRED.**—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a State or Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) **FOLLOW-UP TESTING.**—The court may order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) **TERMINATION OF TESTING REQUIREMENTS.**—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(5) **CONFIDENTIALITY OF TEST.**—The results of any test ordered under this subsection shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to any medical professional, counselor, family member or sexual partner(s) the victim may have had since the attack. Any such individual to whom the test results are disclosed by the victim shall maintain the confidentiality of such information.

(6) **DISCLOSURE OF TEST RESULTS.**—The court shall issue an order to prohibit the disclosure by the victim of the results of any test performed under this subsection to anyone other than those mentioned in paragraph (5). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant

under this section shall not be used as evidence in any criminal trial.

(7) **CONTEMPT FOR DISCLOSURE.**—Any person who discloses the results of a test in violation of this subsection may be held in contempt of court.

(c) **PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.**—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 40604. EXTENSION AND STRENGTHENING OF RESTITUTION.

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

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

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

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

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

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

SEC. 40605. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, "Federal benefit" means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States."

SEC. 40606. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

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

(b) **REPORT.**—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

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

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

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

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

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

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrange-

ments, control over the consumption of alcohol by students, lighting, and the availability of escort services;

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

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

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

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

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

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

(6) in conjunction with the report produced by the Department of Education in coordination with institutions of education under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

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

(c) **SUBMISSION OF REPORT.**—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1996.

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

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out the study required by this section—\$200,000 for fiscal year 1996.

SEC. 40507. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) **REPORT.**—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the House Committee on Energy and Commerce, the Senate Committee on Labor and Human Resources, and the Committees on the Judiciary of the Senate and the House of Representatives a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in criminal trials.

(b) **COMPONENTS.**—The report under subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State, tribal, and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State, tribal, and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 40508. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

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

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

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

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

SEC. 40509. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to

Congress a report and recommendations on, problems of record-keeping of criminal complaints involving domestic violence. The study and report shall examine—

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

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

Subtitle F—National Stalker and Domestic Violence Reduction

SEC. 40601. AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.

(a) **ACCESS AND ENTRY.**—Section 534 of title 28, United States Code, is amended by adding at the end the following:

"(e)(1) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

"(2) Federal and State criminal justice agencies authorized to enter information into criminal information databases may include—

"(A) arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and

"(B) protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

"(3) As used in this subsection—

"(A) the term 'national crime information databases' means the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

"(B) the term 'protection order' includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendent lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection."

(b) **RULEMAKING.**—The Attorney General may make rules to carry out the subsection added to section 534 of title 28, United States Code, by subsection (a), after consultation with the officials charged with managing the National Crime Information Center and the Criminal Justice Information Services Advisory Policy Board.

SEC. 40602. GRANT PROGRAM.

(a) **IN GENERAL.**—The Attorney General is authorized to provide grants to States and units of local government to improve processes for entering data regarding stalking and domestic violence into local, State, and national crime information databases.

(b) **ELIGIBILITY.**—To be eligible to receive a grant under subsection (a), a State or unit of local government shall certify that it has or intends to establish a program that enters into the National Crime Information Center records of—

(1) warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;

(2) arrests or convictions of persons violating protection or domestic violence; and

(3) protection orders for the protection of persons from stalking or domestic violence.

SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

- (1) \$1,500,000 for fiscal year 1996;
- (2) \$1,750,000 for fiscal year 1997; and
- (3) \$2,750,000 for fiscal year 1998.

SEC. 40604. APPLICATION REQUIREMENTS.

An application for a grant under this subtitle shall be submitted in such form and manner, and contain such information, as the Attorney General may prescribe. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State or local funding, as the case may be, does not already cover these operations;

(2) intended use of the grant funds, including a plan of action to increase record input; and

(3) an estimate of expected results from the use of the grant funds.

SEC. 40606. DISBURSEMENT.

Not later than 90 days after the receipt of an application under this subtitle, the Attorney General shall either provide grant funds or shall inform the applicant why grant funds are not being provided.

SEC. 40606. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATIONS.

The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle, and may provide for the evaluation of programs that receive funds under this subtitle, in addition to any evaluation requirements that the Attorney General may prescribe for grantees. The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through contracts or other arrangements with other entities.

SEC. 40607. TRAINING PROGRAMS FOR JUDGES.

The State Justice Institute, after consultation with nationally recognized nonprofit organizations with expertise in stalking and domestic violence cases, shall conduct training programs for State (as defined in section 202 of the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701)) and Indian tribal judges to ensure that a judge issuing an order in a stalking or domestic violence case has all available criminal history and other information, whether from State or Federal sources.

SEC. 40608. RECOMMENDATIONS ON INTRASTATE COMMUNICATION.

The State Justice Institute, after consultation with nationally recognized nonprofit associations with expertise in data sharing among criminal justice agencies and familiarity with the issues raised in stalking and domestic violence cases, shall recommend proposals regarding how State courts may increase intrastate communication between civil and criminal courts.

SEC. 40609. INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.

Not later than 2 years after the date of enactment of this Act, the Attorney General, in accordance with the States, shall compile data regarding domestic violence and intimidation (including stalking) as part of the National Incident-Based Reporting System (NIBRS).

SEC. 40610. REPORT TO CONGRESS.

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides information concerning the incidence of stalking and domestic violence, and evaluates the effectiveness of State antistalking efforts and legislation.

SEC. 40611. DEFINITIONS.

As used in this subtitle—

(1) the term "national crime information database" refers to the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

(2) the term "protection order" includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders, whether obtained by filing an independent action or as a pendent lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by, or on behalf of a person seeking protection).

Subtitle G—Protections for Battered Immigrant Women and Children

SEC. 40701. ALIEN PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii) and

(C) by adding at the end the following new clauses

"(iii) An alien who is the spouse of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under such section if the alien demonstrates to the Attorney General that—

"(i) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse; and

"(ii) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien or a child of the alien.

"(iv) An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(i) the alien is residing in the United States and during the period of residence with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent; and

"(ii) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien."

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)"; and

(B) by adding at the end the following new clauses:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (ii)) under such section if the alien demonstrates to the Attorney General that the conditions described in subclauses (i) and (ii) of subparagraph (A)(iii) are met with respect to the alien.

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's permanent resident parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(i) the alien is residing in the United States and during the period of residence with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent; and

"(ii) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien;" and

(3) by adding at the end the following new subparagraph:

"(H) In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General."

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A) by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,"; and

(B) in subparagraph (B) by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the sole basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

SEC. 40702. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 40763. SUSPENSION OF DEPORTATION.

(a) BATTERED SPOUSE OR CHILD.—Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child."

(b) CONSIDERATION OF EVIDENCE.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(g) In acting on applications under subsection (a)(3), the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General."

Subtitle D—Domestic Violence

SEC. 110401. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) **INTIMATE PARTNER DEFINED.**—Section 921(a) of title 18, United States Code, as amended by section 110103(b), is amended by inserting at the end the following new paragraph:

"(32) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person."

(b) **PROHIBITION AGAINST DISPOSAL OF FIREARMS.**—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury."

(c) **PROHIBITION AGAINST RECEIPT OF FIREARMS.**—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury."

(d) **STORAGE OF FIREARMS.**—Section 926(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

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

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922."

(e) **RETURN OF FIREARMS.**—Section 924(d)(1) of title 18, United States Code, is amended by striking "The seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

SEC. 230921. FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) SENTENCE OF PROBATION.—Section 3561 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

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

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term 'domestic violence crime' means a crime of violence for which the defendant may be prosecuted in a court of the United States in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant."

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended by—

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

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

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561(b) by a defendant convicted of such an offense for the first time that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant."

(c) SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant."

APPENDIX F

FIGHTING FAMILY VIOLENCE

NCSL Legisbrief

June 1994

FIGHTING FAMILY VIOLENCE

By Rita Thaemert

Abusing family members has become a public issue; in many states it is a criminal offense. Nearly 500 bills dealing with family violence were introduced in state legislatures in 1993. One hundred of those bills became law, reflecting changes in legislative response to both victims and perpetrators. Legislation in every state has brought about a significant increase in requests for restraining orders and a substantial increase in arrests.

Courts have expanded sentencing powers in domestic abuse cases.

Eight states—CALIFORNIA, HAWAII, MAINE, MINNESOTA, NEW HAMPSHIRE, OKLAHOMA, VIRGINIA and WYOMING—provide for enhanced criminal penalties for repeated domestic abuse or harassment. Of the 15 family violence statutes passed in California last year, four had to do with enhanced sentencing. California now requires the court to order the defendant to pay for all or part of the expense of participating in a batterer's program. And the state mandates a minimum 48-hour imprisonment of a person on probation for a previous domestic abuse offense.

New legislation more broadly defines the victims and the crimes.

Domestic or family violence legislation now more broadly defines who are the victims and also adds to the list of crimes related to violence at home. In 1993 nine states—ARKANSAS, CALIFORNIA, IOWA, IDAHO, MONTANA, NORTH CAROLINA, NORTH DAKOTA, OREGON and RHODE ISLAND—increased the scope of definitions for domestic abuse. Arkansas added the term "exploitation" to acts of abuse. Oregon expanded the designations of people to whom the Abuse Prevention Act applies. Rhode Island now provides for protection under the Domestic Violence Prevention Act to those victims who shared an intimate sexual relationship with their attackers within the previous six months. Another significant kind of expanded definition applies to spousal rape. CALIFORNIA, ILLINOIS, MISSISSIPPI, NORTH CAROLINA and OKLAHOMA now define spousal rape in essentially the same manner as they define rape.

Personal Exposure to Violence*

(% Yes)

	Women	Men
Have you witnessed people threatening violence?	50%	63%
Have you witnessed a man beating his wife or girlfriend?	33	35
Have you witnessed a woman beating her husband or boyfriend?	10	20
Have you witnessed a parent beating a child?	20	25

*Drawn from a national sampling of 1,000 men and women aged 18 and older by the Family Violence Prevention Fund, April 1993.

Omnibus Family Violence Statutes

- Minnesota • Relates to crimes, investigations, victim rights and sentencing; provides for safe zones for children and families; modifies stalking, harassment and domestic abuse provisions.
H 1585

- South Carolina • Defines the duties of three executive departments concerned with adult abuse; establishes reporting and investigation procedures; provides family court procedures; provides immunity for good faith reporting.
H 3016

Innovative Family Violence Statutes

- California • Requires the medical board to disseminate information about the detection and treatment of spousal or partner abuse.
A 890

- Delaware • Initiates early judicial intervention, encouraging treatment for a first offender rather than the previous use of arbitration.
S 153

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Pennsylvania • Urges the Pennsylvania state police to make an annual report to the General Assembly on family and sexual violence.
HR 13

Texas • Requires training for judges on problems of family violence, sexual assault and child abuse.
H 238

Five states—ALASKA, ARKANSAS, DELAWARE, PENNSYLVANIA and RHODE ISLAND—established or expanded their councils and commissions to help promote intervention by public and private agencies. The groups are also designed to increase awareness and understanding of domestic violence. Arkansas expanded its Child Abuse/Rape/Domestic Violence Commission. Delaware created a permanent council to establish domestic violence policy. Rhode Island created a special legislative commission on violence.

Four states—MICHIGAN, NORTH DAKOTA, NEW MEXICO and VIRGINIA—enacted laws to make domestic violence a consideration in custody cases. Under their laws, custody decisions must presume that it is detrimental to the child to be placed with an abusive parent. New Mexico limits the use of mediation in child custody disputes when domestic violence or child abuse has occurred. Virginia law specifies that consideration must be given to the child's preference and any history of family abuse.

States are realizing the importance of statistical information to help coordinate the work of different agencies and assist with case handling. Four states—CONNECTICUT, NORTH DAKOTA, TENNESSEE and WASHINGTON—created or improved their family violence data collection systems. Connecticut streamlined its family violence data form. A Washington statute created new procedures for reporting domestic violence and requires records to be submitted to the Washington Association of Sheriffs and Police Chiefs.

Nine states—ALABAMA, CALIFORNIA, CONNECTICUT, ILLINOIS, MICHIGAN, MINNESOTA, MONTANA, NEW JERSEY and SOUTH DAKOTA—found a variety of ways to fund domestic violence programs. Alabama appropriated money from the general fund to the Coalition Against Domestic Violence. Illinois waived the filing fee for petitions for protection orders. Minnesota extended unemployment compensation benefits to individuals leaving employment for protection from domestic abuse. South Dakota increased the share of marriage license fees given to domestic abuse programs and appropriated money for grants to domestic and sexual abuse shelter programs.

Many other new laws deal with miscellaneous areas associated with family violence, such as mandatory arrest, protective orders, stalking, and treatment and intervention. NEVADA and WYOMING join 11 other states in having battered woman syndrome laws (Nevada's is called "Domestic Abuse Syndrome"). CALIFORNIA and WASHINGTON now have clemency laws that reduce sentences for battered women convicted of murdering their abusers. MARYLAND established a Family Court to handle all aspects of family law, including family violence. NEW JERSEY created a special State Police Unit on reporting violent crimes. The trend throughout the states to deal with gun control is reflected in new domestic violence laws in ILLINOIS and OKLAHOMA. Illinois law states that an officer shall remove any dangerous weapon from the scene of domestic abuse. Oklahoma law requires peace officers to seize any weapon or instrument used or intended to be used to commit an act of domestic abuse.

Selected References

National Council of Juvenile and Family Court Judges. Family Violence: A Model State Code. Reno, Nev.: University of Nevada, 1994.
U.S. Department of Justice. Family Violence: Interventions for the Justice System. Washington, D.C.: Bureau of Justice Assistance, October 1993.

Contact for More Information

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Data collection helps coordinate agencies.

States find a variety of ways to fund programs.



APPENDIX G

NEVADA LAWS COMPARED WITH *Model Code on Domestic and Family Violence* December 1994

NEVADA LAWS ADDRESSING DOMESTIC VIOLENCE
COMPARED WITH
MODEL CODE ON DOMESTIC AND FAMILY VIOLENCE

The following comparisons are in the same order as the provisions in the model code and should be read in conjunction with the code and the cited sections from the *Nevada Revised Statutes* (NRS).

CHAPTER 1: GENERAL PROVISIONS

Sec. 101, "Construction." There is no equivalent statement of purpose among Nevada laws addressing domestic violence.

Sec. 102, "Definitions."

- Brief summary of Nevada law: Domestic violence is defined in NRS 33.018, 171.1225, 200.481, and 217.400. The first two statutes use identical language. The third defines "battery" (which the first two identify as one of the acts that may constitute domestic violence) and uses a different definition of who may be a victim of domestic battery. NRS 217.400 also defines the victim differently and includes, as part of the definition, "the placing of the member in fear of imminent physical harm by threat of force." None of the other definitions includes such language.
- Comparison of the acts defined as constituting domestic violence: Nevada law specifies the injurious activities that constitute domestic violence; the model act simply says "physical harm." According to the model code commentary, this phrase "permits a court to exercise broad discretion in evaluating whether the conduct has resulted in an injury that might not typically be identified as a medical injury." The model code also allows for the "fear of physical harm," which three of the four Nevada definitions do not. The commentary notes that the "[u]se of the word 'fear' [in this case] refers to a reasonable person standard." Consequently, it appears that the model code uses a broader definition of "domestic violence" than does Nevada law.
- Comparison of the people considered victims of domestic violence: NRS 33.018 and 171.1225 specify people to whom the perpetrator "is related by blood or marriage, with whom he is or was actually residing or with whom he has a child in common, or upon his minor child or a minor child of that person." This definition does not include former spouses. NRS 200.481 includes all of the people defined in these definitions plus former spouses. NRS 217.400 is the most narrow of the four definitions, using the phrase "family or household member." The following people are included in the model code, but not Nevada

law: adults or minors who are dating or have dated, adults or minors who are engaged in or who have been engaged in a sexual relationship, adults or minors related by adoption, adults or minors who are formerly related by marriage (other than spouses), and children of all of the people in the definition (other than grandchildren of the perpetrator). Consequently, it appears that the model code uses a broader definition of "victim of domestic violence" than does Nevada law.

- Comparison with the rest of the definitions: Nevada law does not create a "program for intervention for perpetrators," a "program for victims of domestic or family violence," or a "safety plan"; consequently, similar definitions are not in NRS. However, NRS 217.420 defines those programs eligible for grants from the State's Account for Aid for Victims of Domestic Violence. This statute is more comprehensive than the model code's definition of such programs.

CHAPTER 2: CRIMINAL PENALTIES AND PROCEDURES

Sec. 201, "'Crime involving domestic or family violence' defined." NRS 33.018 and 171.1225 define "acts of domestic violence" as meaning any of the following acts: battery; assault; "compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform"; sexual assault; "a knowing, purposeful or reckless course of conduct to harass the other"; false imprisonment; "unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry." The model code includes additional acts, such as: arson; burglary; destruction, damage, vandalism of property; abduction; stolen property offenses; weapon law violations; disorderly conduct; stalking; and trespass of real property. Consequently, it appears that the model code is more comprehensive than Nevada law.

Sec. 202, "Violation of certain orders for protection is misdemeanor." NRS 33.100 is broader than the model code, stating that a violator "is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act which constitutes the violation of the order." The substance of the orders described in the model code is similar to Nevada's as provided in NRS 33.030. However, Nevada law does not include the provision concerning possession or use of a firearm.

Sec. 203, "Enhancement of penalty for second or subsequent crime involving domestic or family violence." Nevada does not include this provision.

Sec. 204, "Duties of law enforcement office to victim of domestic or family violence; required notice to victim." Nevada does not require peace officers to perform the duties described in paragraphs (a) through (e) of subsection 1 of the model code. NRS 171.1225 is similar to subsection 2 and to paragraph (f) of subsection 1,

by requiring the provision of a written statement to the victim. The contents of the notice required in Nevada law differ from the model code's notice, based on differences between Nevada law and the model code. Nevada law does not include subsection 3 of the model code. Consequently, it appears that the model code is more comprehensive than Nevada law.

(The model code provides two different ways to draft Sec. 205; the first option is more lenient than the second.)

Sec. 205(A), "Powers and duties of law enforcement officers to arrest for crimes involving domestic or family violence; determination of primary aggressor; required report." Subsection 1: The model code tells peace officers that arrest is the preferred response. Nevada law (NRS 171.137) is tougher, mandating arrest with or without a warrant, "unless mitigating circumstances exist." Subsection 2: Nevada law and model code are similar. Subsection 3: Only paragraph (b)(2) is included in Nevada law. Subsection 4: Nevada law is more comprehensive, requiring reports on all domestic violence investigations, regardless of whether anyone was arrested or not, and information to be compiled from these reports for public record.

-OR-

Sec. 205(B), "Mandatory arrest for crimes involving domestic or family violence; determination of primary aggressor; required report." Subsection 1: By allowing for mitigating circumstances (which are not defined in law) and requiring arrest within 4 hours of the incident, Nevada's mandatory arrest law is not as strict as the model code. Subsection 2: Nevada law and model code are similar. Subsection 3: Not in Nevada law. Subsection 4: Nevada law is more comprehensive, requiring reports on all domestic violence investigations, regardless of whether anyone was arrested or not, and information to be compiled from these reports for public record.

Sec. 206, "Mandatory arrest for certain violations of orders for protection." NRS 33.070 requires mandatory arrest only if the officer witnesses the violation of the order. Consequently, it appears that the model code is more strict than Nevada law.

Sec. 207, "Authority of law enforcement officer to seize weapons." NRS 171.146 allows officers to take weapons from an arrested person; it does not specify that weapons should be seized in domestic violence situations. The model code mandates that weapons must be confiscated. Consequently, it appears that the model code is more comprehensive than Nevada law.

Sec. 208, "Conditions of release." Nevada does not have similar provisions. However, NRS 178.484 specifies that a domestic violence offender must be held for at least 12 hours; the model code does not provide a minimum detention time. Subsection 6 concerns notice to victims of the release of the offender. Several

NRS provisions (178.5698, 209.521, 213.010, 213.040, 213.095, 213.130) govern notices to victims in various circumstances. Most require the victim to provide written request for such notice; the model code does not. Consequently, it appears that the model code is more comprehensive than Nevada law.

Nevada law does not include the following provisions: Sec. 209, "Mandatory arrest for violation of conditions of release"; Sec. 210, "Written procedures for prosecution of domestic and family violence; purpose"; Sec. 211, "Duty of prosecutor to notify victim"; Sec. 212, "Record of dismissal required in court file"; Sec. 213, "Dismissal of criminal case prohibited because civil compromise reached"; Sec. 214, "Rights of victims of domestic or family violence; duty of prosecutor to inform victim of rights."

Sec. 215, "Spousal privileges inapplicable in criminal proceedings involving domestic or family violence." NRS 49.295 specifies that spousal privilege does not apply to a criminal proceeding in which one spouse is charged with a crime against the person or property of the other spouse or their children. The model code is more comprehensive because Nevada law does not make spousal privileges inapplicable in criminal proceedings for domestic violence committed against other relatives or intimates.

Nevada law does not include the following provisions: Sec. 216, "Advocate-victim privilege applicable in cases involving domestic or family violence"; Sec. 217, "Residential confinement in home of victim prohibited"; Sec. 218, "Diversion prohibited; deferred sentencing permitted."

Sec. 219, "Conditions of probation for perpetrator convicted of crime involving domestic or family violence; required reports by probation department." Most of these provisions are not in state law, with one exception: NRS 200.481 allows the punishment for domestic battery to include the requirement to participate in and complete a counseling program.

Nevada law does not include the following provisions: Sec. 220, "Conditions of parole for perpetrator convicted of crime involving domestic or family violence; required reports by parole board"; Sec. 221, "Duties of department of corrections."

Sec. 222, "Release of perpetrator permitted under certain conditions; notice to victim; confidentiality of victim's address." Most of this is not in Nevada law. See discussion under Sec. 208 for notice requirements in state law.

Sec. 223, "Required written policies and procedures." Not in state law.

CHAPTER 3: CIVIL ORDERS FOR PROTECTION

Sec. 301, "Eligible petitioners for order." Nevada law does not provide similar definition. NRS 33.020 simply says "applicant." Consequently, Nevada law allows a larger class of applicants than the model code does.

Sec. 302, "Uniform form required for petitions and orders; required statements in petitions and orders; duty of clerk to provide petitions and clerical assistance." Most of this is not in state law. NRS 33.050 requires clerks to assist petitioners, free of charge.

Sec. 303, "Jurisdiction; venue; residency not required to petition." Subsection 1: NRS 3.223 states: "The family court, where established, and the justices' court have concurrent jurisdiction over actions for the issuance of a temporary or extended order for protection against domestic violence." Otherwise, NRS is silent on the provisions in this section of the model code.

Sec. 304, "Continuing duty to inform court of other proceedings; effect of other proceedings; delay of relief prohibited; omission of petitioner's address." Most of this is not in Nevada law. However, the two sentences of subsection 2 of NRS 33.040 are almost identical with the first two sentences of subsection 2 of Sec. 304. This statute does not contain the third sentence in the model code's subsection 2. In addition, NRS 33.040 contains a sentence that is not included in the model code: subsection 1 provides that protection orders are not dependent on actions for dissolution of marriage.

Sec. 305, "Emergency order for protection; available relief; availability of judge or court officer; expiration of order." Nevada does not provide for emergency protection orders nor does it require 24-hour judicial access for applicants. NRS 33.020 provides for the issuance of temporary protective orders. Applications must be ruled on within 1 day of filing, and telephone applications are accepted. NRS 33.080 provides that temporary orders expire in 30 days. The model code does not provide for temporary orders.

Sec. 306, "Order for protection; modification of orders; relief available ex parte; relief available after hearing; duties of the court; duration of order." Subsection 1 of this section is similar to NRS 33.020. Subsection 2 is similar to NRS 33.030, except paragraphs (e) and (f) are not in Nevada law. Subsection 3 is similar to NRS 33.030, except paragraph (d)(2) is not in Nevada law. Subsection 4 is similar to NRS 33.060, except paragraph (b) is not in Nevada law. In addition, paragraph (d) is not in NRS because there is no state registry of protective orders. Subsection 5 is similar to NRS 33.080, except that this statute specifies that extended protective orders expire in 1 year. Subsection 6 is not in Nevada law. Consequently, Nevada law appears to be more narrow than the model code.

Sec. 307, "Required hearings; duty of court when order for protection is denied."

These provisions are not in state law. NRS 33.020 allows the issuance of temporary orders with or without notice or hearing. The issuance of extended orders requires notice and hearing. The model code allows the issuance of orders without notice or hearing, but provides a mechanism for a hearing after the issuance of an order. Consequently, Nevada law appears to be more narrow than the model code.

Nevada law does not include the following provisions: Sec. 308, "Effect of action by petitioner or respondent on order"; Sec. 309, "Denial of relief prohibited"; Sec. 310, "Mutual orders for protection prohibited."

Sec. 311, "Court-ordered and court-referred mediation of cases involving domestic or family violence prohibited." NRS 3.225 encourages family courts to use "nonadversarial methods or other alternatives to traditional methods of resolution of disputes." This statute could be interpreted as allowing judges to order mediation in domestic violence cases. Consequently, the model code appears to be more strict than Nevada law.

Sec. 315, "State registry for orders for protection." Nevada does not have such an entity.

CHAPTER 4: FAMILY AND CHILDREN

Virtually none of these model statutes are in Nevada law. Chapter 432B of NRS concerns the reporting and investigation of child abuse, but there is no mention of domestic violence in this chapter. The only statute concerning children's welfare and domestic violence is NRS 125.480, which requires the court, when determining the best interest of a child who is subject of custody request, to consider whether the person seeking custody has committed an act of domestic violence against the child, the parent of the child, or any other person living with the child.

Consequently, Nevada laws are not as comprehensive as this chapter of the model code since NRS does not address the relationships between child abuse and domestic violence.

CHAPTER 5: PREVENTION AND TREATMENT

None of these model statutes are currently in Nevada law. At one time, however, Nevada had provisions similar to Sec. 503, "Enabling statute for establishment of local councils." In 1981, the Legislature passed Senate Bill 371 (sponsored by Senator Sue Wagner), which required each board of county commissioners to create an

advisory board on domestic violence. In 1983, the Legislature passed S.B. 426 (also sponsored by Senator Sue Wagner), which abolished these boards as of July 1, 1985.

STATUTES NOT IN MODEL CODE

Nevada law contains the following provisions that are not included in the model code:

- NRS 48.061, "Effects of domestic violence." Allows the admission of evidence of, and expert testimony concerning, domestic violence under certain circumstances. Such information may be used to determine if a person killed another in self-defense, or if a person is excepted from criminal liability because an act was committed under threats or menaces causing fear of substantial bodily harm. (Also known as the "battered woman defense," this provision was added to NRS in 1993.)
- NRS 122.060, "Fees." Subsection 4 requires the collection of a \$12 fee for each marriage license issued and the deposit of these fees in the Account for Aid to Victims of Domestic Violence in the State General Fund. Effective July 1, 1996, the fee is raised to \$15. (Provision added in 1981.)
- NRS 217.400 through 217.460, "Assistance to Victims Of Domestic Violence." Creates the Account for Aid to Victims of Domestic Violence, specifies to whom and how funds from the account are distributed, and requires the administrator of the State's Division of Child and Family Services to make a comprehensive report to each session of the Nevada Legislature about the activities and effectiveness of grant recipients. (Most provisions added in 1981; NRS 217.445, "Expenditure of grant must be approved by division," added in 1983.)

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Research Division, Legislative Counsel Bureau
December 19, 1994

APPENDIX H

DOMESTIC VIOLENCE PROGRAMS IN NEVADA List of Agencies and Phone Numbers

DOMESTIC VIOLENCE PROGRAMS IN NEVADA	
CARSON & STOREY COUNTIES	
Advocates to End Domestic Violence P.O. Box 2529 Carson City, NV 89702	883-7654
CHURCHILL COUNTY	
Domestic Violence Intervention P.O. Box 2231 Fallon, NV 89406	423-1313
CLARK COUNTY	
Temporary Assistance for Domestic Crisis, Inc. P.O. Box 43264	Office 368-1533
Las Vegas, NV 89116	646-4981
TADC Counseling Office	877-0133
DOUGLAS COUNTY	
Douglas County Family Support Council P.O. Box 810	Office 782-7565
Minden, NV 89423	Hotline 782-8692
Stateline, Zephyr Cove, Glenbrook	588-7171
ELKO COUNTY	
Committee Against Domestic Violence P.O. Box 2531	Office 738-6524
Elko, NV 89801	Hotline 738-9454
HUMBOLDT COUNTY	
Committee Against Family Violence P.O. Box 583	Office 623-3974
Winnemucca, NV 89445	Hotline 623-6429
LANDER COUNTY	
Lander County Committee Against Domestic Violence P.O. Box 624 Battle Mountain, NV 89820	635-2500
LYON COUNTY	
Alive	Office 463-5843
P.O. Box 130	Hotline 463-4009
Yermington, NV 89447	1-800-453-4009
MINERAL COUNTY	
Mineral County Advocates to End Domestic Violence P.O. Box 331 Hawthorne, NV 89415	945-2472
NYE & ESMERALDA COUNTIES	
Intercept P.O. Box 891	482-2273
Tonopah, NV 89049	1-800-322-2220
PERSHING COUNTY	
Pershing County Domestic Violence Intervention P.O. Box 1203 Lovelock, NV 89419	273-7373
WASHOE COUNTY	
Committee to Aid Abused Women 101 15th Street Sparks, NV 89431	358-4150
WHITE PINE, EUREKA & LINCOLN COUNTIES	
Support, Inc. P.O. Box 583 Ely, NV 89301	289-2270
Lincoln County	726-3150