



Legislative Bulletin.....May 16, 2012

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H.R. 4970 – Violence Against Women Reauthorization Act of 2012

H.R. 4970 — Violence Against Women Reauthorization Act of 2012 (Adams, R-FL)

Order of Business: The bill is scheduled to be considered today, Wednesday, May 16, 2012, under a closed rule ([H.Res. 656](#)) that prohibits any amendments. The Rule provides one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on the Judiciary. It also provides that the Manager’s Amendment included in the Rules Committee [Report](#) is adopted. The Senate passed its version of a reauthorization on April 26, 2012 (S. 1925) by a vote of [68-31](#).

Summary: H.R. 4970 reauthorizes for five years the Violence Against Women Act (VAWA, P.L. 103-322)—a 1994 law first enacted during the Clinton era which has been reauthorized with strong bipartisan support twice: once in 2000¹ and the second time in 2005². The programs authorized under VAWA expired on September 30, 2011, yet they have continued to receive funding.

VAWA established the Violence Against Women Office in the Department of Justice (DOJ) and created many new grant funding programs charged with changing attitudes and promoting awareness of domestic violence, improving services for victims, and revising how the criminal justice system responds to domestic violence, dating violence, stalking, sexual assault, and trafficking of persons. These grant programs are administered through the DOJ as well as the Centers for Disease Control (CDC) in the Department of Health and Human Services (HHS). A summary of H.R. 4970’s major provisions are below:

- Provides technical corrections and universal definitions for all VAWA programs including Alaska native village, child, culturally specific services, culturally

¹ The Victims of Trafficking and Violence Protection Act of 2000 (H.R. 3244) passed the House by a [371-1](#) vote and the Senate by a [95-0](#) vote.

² The Violence Against Women and Department of Justice Reauthorization of 2005 passed the House by a vote of [415-4](#) and the Senate by Unanimous Consent.

specific, homeless, personally identifying information or personal information, population specific organization, population specific services, rape crisis center, sex trafficking, sexual assault, tribal coalition, underserved populations, unit of local government, victim services, victim service provider, and youth.

- Sets out the following requirements that will apply to all VAWA grant programs:
 - Requires providers of legal assistance must be sufficiently trained or experienced in providing such assistance to victims as required under current law (42 U.S.C. 379gg-6(d));
 - Restricts disclosure of victims’ personally identifying information and confidential information;
 - Permits VAWA grantees the ability to advocate for state, local, or tribal legislation or model codes “designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking; and
 - Updates nondiscrimination provisions pertaining to any potential denial of benefits based on actual or perceived race, color, religion, national origin, sex or disability by any program or activity funded in whole or part with funds made available under VAWA.

- New taxpayer accountability measures include:
 - Requiring the DOJ and HHS Inspectors General (IGs) to conduct annual audits of at least 10% of all VAWA grant recipients. Grantees are prohibited for two fiscal years if they are found to have an unresolved audit finding in any one year;
 - Requires VAWA grant applicants to include a list of each federal grant the applicant has applied for during the one-year period before the VAWA grant application as well as a list of all federal grants received by the applicant during the preceding five year period.
 - Requires the Attorney General (AG) to improve coordination of the administration of grants to reduce grant duplication and increase efficiency. The AG must submit a report back to certain Congressional committees within six months of enactment of the bill on the AG’s progress.
 - Prohibits VAWA funds to lobby the DOJ, Congress, or state or local governments *regarding the award of grant funding*—grantee violators are prohibited from receiving future VAWA grants for five years;
 - Prohibits grant awards to nonprofit organizations that hold money offshore for the purposes of avoiding federal taxes;
 - Limits grant funding for salaries and administrative expenses to 5%;
 - Prohibits grant funds to host or support any conference expenditure unless prior written approval by the Deputy Attorney General, appropriate Assistant Attorney General, or the Deputy Secretary of Health and Human Services is provided.

- Reauthorizes the STOP grant program (Services-Training-Officers-Prosecutors) at \$222 million for each of fiscal years 2013 through 2017 (\$225 million for FY2011). According to the Judiciary Committee, the STOP grant is the primary VAWA grant program to state and local governments to address domestic violence, sexual assault, dating violence, and stalking crimes. All 50 states, U.S. Territories, and the District of Columbia received grants according to a statutory formula, which can then be subgranted to state agencies, state and local courts, local governments, tribal governments, and nonprofit victim service providers. This reauthorization places more emphasis on training and sexual violence crime enforcement, adds stalking as an offense for grant purposes, promotes rape kit reduction backlogs, and includes a 20% set-aside for sexual assault programs. It also reforms the STOP grant application process by requiring states to develop a comprehensive implementation plan showing how VAWA grant funds would be spent.
- Reauthorizes at \$73 million (\$75 million for FY2011) grants for FY2013-FY2017 to encourage the arrest of abusers who commit acts of violence or violate protection orders. It increases emphasis on sexual assault offenses by promoting implementation of related programs to reduce rape kit backlogs and setting aside 25% of available amounts for sexual assault offenses. Also, it revises the current law requirement that state and local government grant recipients test sex offenders for HIV at the request of victims within 48 hours of information or indictment (or else lose 5% of their grant funding) to require this test to be performed within 48% of the offender being in custody or served with the information or indictment. Grantees must certify that victims are not charged for associated costs with the modification, enforcement, or dismissal of a protection order.
- Reauthorizes at \$57 million (\$65 million for FY2011) the Legal Assistance for Victims program for FY2013-FY2017. This program permits VAWA grantees to recruit, train, and mentor pro bono attorneys and law students in providing legal services to adult and youth victims of domestic violence, dating violence, stalking, and sexual assault.
- **Consolidates** two judge and court training grant programs created in the 2005 VAWA reauthorization into **one** program and reauthorizes the one program at \$22 million (\$25 million for **both** programs in FY2011) for FY2013-FY2017. The reauthorized program trains judges and court personnel on the intersection between domestic violence and family court proceedings while promoting safe supervised visitation for families in cases involving domestic violence and sexual assault.
- Reauthorizes at \$12 million (\$12 million in FY2011) the Court-Appointed Special Advocates for Victims of Child Abuse Program for FY2013-FY2017. This program assists child victims of abuse or neglect. The reauthorization requires a **new** annual reporting requirement about outcome performance measures to

determine the effectiveness of the programs of the organization meeting the needs of children in the child welfare system.

- **Eliminates** the \$2 million Outreach to Underserved Populations grant program, and **replaces** it with a **new** program offering services to victims in underserved communities (at the FY2011 \$2 million funding level along with a 2% increase from funds appropriated from the STOP and Arrest programs described above).
- Clarifies that organizations which provide culturally specific programming—but not linguistically specific programming—are eligible for the Culturally-Specific Services grant which draws funding from other appropriated programs.
- Requires that at least 75% of the VAWA grants awarded are spent on analyzing untested DNA evidence from crime scenes or enhancing the capacity of labs to meet this threshold. According to reports, this provision will amount to at least \$75 million for the DOJ to use for rape kit testing programs on actual DNA tests.
- Reauthorizes at \$5 million (same level as FY2011) a grant program to assist probation and parole officers (and other personnel who work with released sex offenders) for FY2013-FY2017.
- Reauthorizes at \$2.3 million (same level as FY2011) a grant program that provides judicial and legal professionals with technical training to address challenges present at juvenile and family courts for FY2013-FY2017.
- Reauthorizes at \$40 million (\$50 million in FY2011) the Sexual Assault Services Program for FY2013-FY2017. This program funds grants for assistance to sexual assault victims. It provides a new funding formula requiring each state, territory, and the District of Columbia to receive a minimum allocation of .75% of appropriated funds (reduced from the current law 1.5% allocation).
- Reauthorizes at \$50 million (\$55 million in FY2011) the Rural Grant Program for FY2013-FY2017. This funding seeks to enhance the safety of victims of domestic violence, dating violence, sexual assault, and stalking by supporting projects uniquely designed to address and prevent these crimes in rural jurisdictions. This provision also provides for legal assistance, other victim services, and programs to reduce rape kit backlogs.
- Reauthorizes at \$9 million (\$10 million for FY2011) the Training, and Services to End Violence Against and Abuse of Women with Disability Grant Program for FY2013-FY2017. The Judiciary Committee explains this grant program addresses the gaps in abuse suffered by domestic violence, dating violence, sexual assault, and stalking victims with disabilities. The provision also now requires the use of evidence-based indicators to assess the risk of domestic and dating violence homicide.

- **Eliminates** the \$10 million Elder abuse grant program, and **replaces** it with a **new** grant program authorized at \$9 million for FY2013-2017 to train law enforcement and prosecutors in recognizing and responding to elder abuse and provide services for victims of elder abuse. This provision requires the AG to consult with the HHS Secretary to ensure that this new grant program is not duplicative of existing HHS grant programs.
- Reauthorizes at \$50 million (\$80 million in FY2011) the Rape Prevention Education Grant administered through the CDC that supports activities of rape crisis centers, sexual assault coalitions, and other nonprofit organizations to increase efforts on how to prevent sexual assaults. Appropriated funds will be allotted to each state based on population. If the appropriated amount exceeds \$48 million in any fiscal year, each state, territory, and the District of Columbia will receive at least \$150,000.
- **Consolidates** eight existing grants to provide counseling, mentoring, and legal assistance to youth victims as well as assistance to middle and high school personnel to help youth victims. This provision requires the grant funds to be used to provide evidence-based programs and training. Funding is authorized at \$15 million (\$30 million combined in FY2011 for all eight existing grant programs) for FY2013-FY2017.
- Reauthorizes at \$12 million (\$15 million in FY2011) Grants to Combat Violent Crimes on Campuses for FY2013-FY2017. This provision includes a new requirement for community-based grantees to implement a coordinated community response both internal and external to the campus; provide prevention education for all incoming students; provide training on domestic violence, dating violence, sexual assault and stalking for campus law enforcement; and provide training on such crimes to members of the campus judicial board.
- **Creates a new National Center for Campus Public Safety** within the Office of Community Oriented Policing Services at DOJ. The new center shall training for campus public safety agencies of institutions of higher education (IHE) and their collaborative partners (including campus mental health agencies); develop research on IHE safety and security; collect, coordinate, and disseminate information and best practices regarding campus safety; develop protocols to prevent, respond to, and recover from natural and man-made emergencies that threaten the campus community; increase cooperation between IHEs and the law enforcement, mental health, and other agencies and jurisdictions that serve them; develop standardized formats and models for mutual aid agreements and memoranda of understanding between campus security agencies and other public safety organizations and mental health agencies; and report annually to Congress and the AG on the center's activities.
- Reauthorizes at \$1 million (\$2 million in FY2011) funding for CDC grants for FY2013-FY2017 to academic institutions and organizations for research on best

practices for reducing and preventing domestic violence, dating violence, sexual assault, and stalking.

- **Consolidates** four programs into one grant aimed at raising awareness and changing attitudes about teen dating violence; preventing, reducing, and responding to children’s exposure to violence at home; and engaging men serve as role models in preventing domestic violence, dating violence, sexual assault, and stalking. This program is authorized at \$15 million (\$27 million combined in FY2011 for all four programs) for FY2013-FY2017 with at least 10% of this funding available to grants to Indian tribes or tribal organizations.
- **Consolidates** three existing VAWA programs relating to the health care system’s response to domestic violence, dating violence, sexual assault, and stalking into one grant program for developing interdisciplinary training for health professionals and education programs for health students. This program is authorized at \$10 million (\$13 million combined in FY2011 for all three programs) for FY2013-FY2017.
- **Extends** current VAWA housing protections to nine federal programs that are not currently covered. These prevent grant applicants from being evicted or denied admission to certain housing programs because they were victims of domestic violence, dating violence, sexual assault, or stalking.
- Reauthorizes at \$35 million (\$40 million in FY2011) the Transitional Housing Assistance Program for FY2013-FY2017.
- Reauthorizes two separate VAWA housing programs each at \$4 million (\$10 million combined in FY2011) for FY2013-FY2017 that address homeless victims as well as equal access to housing.
- Reauthorizes at \$1 million (same level in FY2011) for the National Resource Center on Workplace Responses. This center provides employers with information and assistance to aid in responses to domestic and sexual violence.
- Enacts the following **immigration-related reforms**:
 - Permits immigration judges to consider any credible evidence upon application by a battered illegal alien for “cancellation of removal” to become a permanent resident. Battered immigrants will be required to be interviewed by immigration officials, and federal investigators will be permitted to speak with accused spouses about the allegations. According to the Judiciary Committee, illegal alien spouses or alien children of U.S. citizens or permanent residents can “self-petition” for permanent residence status on their own if they have been battered or subject to extreme cruelty. The bill provides that these self-petitions will be adjudicated by four U.S. Citizenship and Immigration Services (USCIS) offices located in

California, Nebraska, Texas, and Vermont with in-person interviews to the self-petitioning aliens (as well as the accused if consent is obtained). Clear and convincing evidence of abuse is required for a local USCIS office to approve in writing a self-petition. Material misrepresentation by the self-petitioner is grounds for deportation in an expedited basis (and not eligible for any delay or exemption from removal);

- Requires an illegal immigrant applying for a U visa to certify under oath that he/she has actually provided law enforcement with information that will assist in identifying the responsible criminals. The Judiciary Committee explains that, “U visas are temporary visas available to illegal immigrants who are victims of certain specified criminal activity in the U.S.” The victims must cooperate with law enforcement investigations or prosecutions;
- Provides that a U.S. citizen’s petition for a temporary fiancé (K-1) or spouse visa (K-2) must include information on convictions for *attempts* to commit crimes or any permanent protection or restraining orders issue against the U.S. citizen (in addition to any convictions of crimes);
- Requires the international marriage brokers to produce upon request from the DOJ the birth certificate or other proof of age document for each foreign national client. Federal law prohibits international marriage brokers from providing anyone with personal information of any person under the age of 18;
- Requires the Government Accountability Office (GAO) to prepare reports for Congress on the approval process for U visas and self-petitions for permanent residence filed by battered illegal aliens as well as the effectiveness of the reforms made by this bill regarding U visas;
- Rescinds the Department of Homeland Security’s (DHS) ability to grant U visa recipients permanent resident status if the recipient has had U visas for three years and their continued presence in the US would be justified on humanitarian grounds, to ensure family unity, or was in the public interest;
- Requires DHS to report to Congress annually on the U visa program, the T visa program (available to victims of trafficking who cooperate with law enforcement in investigations/prosecutions), and the self-petition process for battered illegal immigrants;
- Allows minor children of illegal aliens who die during their self-petition process to have their derivative petitions for permanent residence adjudicated;
- Extends the same current law Hardship waiver discretion authority for USCIS to cases of illegal aliens who were battered or subject to extreme cruelty after unknowingly entering into a bigamous marriage;
- Provides for national security information sharing by of defense agencies for U visa, T visa, or self-petition applicants.
- Allows DOJ to consider other evidence including sentencing reports and police reports in determining whether domestic abuse convictions by

illegal aliens satisfies the definition of a crime of violence where conviction records do not conclusively answer the question.

- Enacts reforms to grants for Indian Tribal Governments and coalitions relating to extended coverage to sex trafficking crimes as well as best practices for responding to domestic violence, dating violence, dating violence, sexual assault, sex trafficking, and stalking in Indian country. It also requires the AG to report to Congress on the annual consultations the AG has with Indian tribal governments on VAWA funded grants. The AG is authorized to expand duties of existing Assistant U.S. Attorney Tribal Liaisons to afford greater focus to domestic violence in Indian country.
- Reauthorizes at \$1 million (same funding in FY2011) a study on violence committed against Indian women in Alaska Native Villages and sex trafficking crimes for FY2013-FY2017.
- Extends authority for the AG to adopt national standards for the detection, reduction, and punishment of rape and sexual assault in federal facilities to DHS and HHS.
- Updates the federal anti-stalking statute to capture more modern forms of communication that perpetrators use to stalk victims.
- Amends the Federal Assault Statute to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating; a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily harm; and a one-year offense for assaulting a person by striking, beating, or wounding.
- Imposes a mandatory 10 year prison sentence for conviction of aggravated sexual abuse offense by force, and a five year prison mandatory sentence for aggravated sexual assault by “other means” such as the use of drugs to render a victim unconscious.

Additional Background: Although the Senate VAWA bill (S. 1925) reauthorizes funding at the same levels of H.R. 4970, the bills differ in some significant ways. S. 1925 maintains the exclusive role of a Vermont U.S. Citizenship and Immigration Services office as the sole location where illegal immigrants married to U.S. citizens or permanent residents can self-petition for permanent residence status if the aliens are victims of spousal abuse. H.R. 4970 opens up new facilities in California, Nebraska, and Texas for this determination and makes other immigration-related reforms. S. 1925 increases prosecutorial jurisdictional power for American Indian Tribes by granting criminal jurisdiction over non-American Indians in cases of domestic violence. Reports indicate this provision potentially violates 1st Amendment protections as well as guarantees of due process. H.R. 4970 does not include this provision. S. 1925 adds persons who may be discriminated against based on sexual orientation or gender identity as an “underserved

population” under VAWA, while H.R. 4970 does not. The Judiciary Committee report explains that nothing in current law prevents all victims (regardless of sexual orientation or gender) from receiving federally-funded resources. S. 1925 increased the number of U visas granted annually from 10,000 to 15,000, while H.R. 4970 does not.

H.R. 4790 enacts important legislative changes that S. 1925 does not. The house bill makes immigration law changes in requiring in-person interviews of alien victims of domestic abuse and allowing investigators to interview spouses accused of domestic violence. It also imposes mandatory prison sentences for convictions of aggravated sexual assault by force (10 years) and by “other means” (5 years). It requires VAWA grant recipients to disclose all federal funding, and requires DOJ and HHS to audit for fraud at least 10% of VAWA grants annually. Lastly, H.R. 4970 requires the DOJ to use 75% of its funding for rape kit testing programs on actual DNA tests in an effort to reduce the backlog of untested DNA samples.

Manager’s Amendment Update: The Rules Committee accepted a Manager’s Amendment (MA) last night that made the following changes to the House-reported bill:

- Retained S.1925’s language providing a Vermont immigration facility as the exclusive facility for handling alleged victims’ residency petitions. A recent CQ Today article stated that a USCIS October 2010 report to Congress explained that the Vermont facility should be the sole facility to handle these petitions because it has “operational expertise and institutional knowledge” and can safeguard victims’ confidentiality;
- Dropped H.R. 4970’s requirement that “self-petitioners” and alleged abusers be interviewed by immigration officials as part of the evaluation of an alleged victim’s residency petition. Supporters of this now dropped provision argue that the “self-petition” mechanism is being abused by some illegal immigrants to gain legal status. Opponents argued this provision puts immigrant victims in danger because alleged abusers would be notified of their immigrant spouse’s request for an independent legal residency status;
- Reduced the evidentiary standards that the self-petitioners must meet for a local USCIS office to approve in writing a self-petition from a “clear and convincing standard” to a “preponderance of the evidence” standard;
- Authorizes domestic violence victims or Indian tribes on behalf of victims to seek protection orders from U.S. District Courts against Indian or non-Indian abusers;
- Requires the AG and HHS Secretary to provide technical assistance and training to grant recipients on compliance measures for financial record-keeping and accounting practices’
- Maintains inadvertently omitted language authorizing VAWA funds to be used for culturally specific programs included in the 2005 VAWA reauthorization; and
- Ensures that faith-based groups who receive VAWA funds are not required to relinquish their ability to make employment decisions on a religious basis.

Potential Conservative Concerns: Section 3 of the bill includes approved activities permitting VAWA grantees to “collaborate with and provide information to Federal,

State, local, tribal, and territorial public officials” and “develop and promote State, local or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.” This section can be construed as permitting grantees to use federal VAWA funds for the purpose of lobbying. Some conservatives would be concerned that federal VAWA funds can be used to lobby government officials for legislation or model codes for domestic abuse despite Section 4’s explicit ban on VAWA funds being employed by grantees to lobby DOJ, Congress, or state or local governments *regarding the award of grant funding*. Also, despite consolidating a number of current VAWA programs, the bill creates a new National Center for Campus Public Safety within the Office of Community Oriented Policing Services at DOJ.

Also, the legislation expands federal crimes. Some conservative have been concerned with the growing number of federal crimes as well as regulations that have criminal penalties attached and may believe that efforts should be made to limit federal involvement in crimes that are historically matters of state interest.

Outside Groups Supportive: According to the bill sponsor, the following groups support the bill: National Alliance to End Sexual Violence, Stop Abusive and Violent Environments, Florida Council Against Sexual Violence, Council for Affordable and Rural Housing, Institute for Real Estate Management, LeadingAge (formerly AAHSA), National Affordable Housing Management Association, National Apartment Association, National Association of Home Builders, National Association of Housing Cooperatives , National Association of REALTORS, National Leased Housing Association National, Multi Housing Council, Numbers USA (before Manager’s Amendment immigration changes), Voice of American Immigration Fraud Victims (before Manager’s Amendment immigration changes).

Outside Groups Opposed: The Dissenting Views included in the Judiciary Committee Report (beginning on [page 254](#)) refers to 170 organizations and individuals opposed to key provisions of the bill. Eagle Forum has removed their opposition.

Committee Action: Representative Sandy Adams (R-FL) introduced H.R. 4970 on April 27, 2012, where the bill was referred to the House Committees on the Judiciary, Energy and Commerce, Education and Workforce, and Financial Services. On May 8, 2012, the Full Judiciary Committee favorably reported the amended bill by a vote of [17-15](#).

Administration Position: The Obama Administration released a Statement of Administration Policy (SAP) opposing this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 4970 on May 11, 2012. It estimates that implementing the bill would cost about \$2.2 billion, assuming appropriations of necessary amounts, over the 2013-2017 period. It also explained that the bill will reduce direct spending by \$429 million, and increase revenue by \$7 million over the 2013-2022 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill creates new federal minimum mandatory sentencing terms for aggravated sexual assault crimes as well as creates a new National Center for Campus Public Safety within the Office of Community Oriented Policing Services at DOJ. However, the bill also reduces annual appropriations by close to \$135 million from FY2011 levels while reducing direct spending by \$429 million over the 2013-2022 period.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The CBO estimate explains that the bill imposes a private-sector mandate on “brokers of international marriage and certain supervisors over persons under official control of the United States,” but that the mandate would not broach the annual threshold established in the Unfunded Mandates Reform Act (\$146 million in 2012, adjusted annually for inflation).

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Judiciary Committee report states that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of House Rule XXI.

Constitutional Authority: The Constitutional Authority Statements accompanying the bill upon introduction states: “Congress has the power to enact this legislation pursuant to the following: The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 3 [the Commerce Clause] of the United States Constitution.”

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