

VAWA 2018 Sect-by-Sect Analysis

Sec. 2 VAWA 2018 incorporates a number of new terms and amends existing terminology. Among the new terms are “technological abuse,” “digital services,” “economic abuse,” “forced marriage,” “alternative justice response,” and “abuse in later life.” It amends terms for “domestic violence” and “court-based and court-related personnel.”

TITLE I – Enhancing Judicial and Law Enforcement Tools

The Violence Against Women Act (VAWA) has improved the criminal justice system’s ability to keep victims safe and hold perpetrators accountable. As a result of this historic legislation, every state has enacted laws making stalking a crime and strengthened criminal rape statutes. VAWA addresses sexual assault, domestic violence, dating violence, and stalking by promoting a coordinated community response in which law enforcement, victim services providers, prosecutors, courts, and others work together in a systemic way.

Sec. 101 The bill encourages prosecutors to develop policies and protocols to prevent the arrest of victims instead of perpetrators of violence. It allows the use of STOP grants to develop the most effective law enforcement tools and protocols for preventing domestic violence homicides and requires state, territorial, local, and tribal governments to certify that they have established and implemented such programs within three years to be eligible for grants. It also conditions eligibility for grant monies on the development of protocols that strongly discourage compelling victim testimony.

Sec. 102 The bill directs the implementation of programs for offender accountability and homicide reduction. The bill eliminates use of the term “older individuals” in favor of the term “people 50 years of age or over.” The bill also establishes an additional purpose area by introducing language to open grants for pilot programs focused on increasing survivor/law enforcement/community safety by looking at alternative and community-based methods of survivor safety and perpetrator accountability. It also uses grant monies to carry out policies and procedures relative to the surrender, removal and storage of firearms and ammunition from prohibited possessors.

Sec. 103 The bill preserves dedicated funding for legal assistance for victims for fiscal years 2019 through 2023, and expands such legal assistance to address the needs of the dependents of victims, if not doing so will affect the safety of the victim.

Sec. 104 The bill preserves dedicated funding, for fiscal years 2019 through 2023, for grants to support families in the justice system, with a history of domestic violence, dating violence, sexual assault, or stalking. It also expands the categories for which such funds may be used, to develop and implement an alternative justice response to these

problems and to carry out policies and procedures relative to the surrender, removal and storage of firearms and ammunition from prohibited possessors.

Sec. 105 The bill preserves dedicated funding for fiscal years 2019 through 2023, for grants for outreach and services to underserved populations.

Sec. 106 The bill ensures that the limitations placed on the Internet publication of information pertaining to the filing of a protection order apply in a particular State, territorial or tribal jurisdiction regardless of whether the protection order was issued in that same State, territory, or tribal jurisdiction.

TITLE II – Improving Services for Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Domestic and sexual violence is widespread in the U.S. with immediate and significant impacts for victims and their families. While women are disproportionately impacted by domestic violence, VAWA-funded programs are required to serve all male victims of domestic violence, dating violence, sexual assault, and stalking. VAWA's non-discrimination requirements support the ongoing ability of programs to serve ALL victims who seek safety and services.

Sec. 201. The bill preserves dedicated funding for fiscal years 2019 through 2023 for grants to States, territories, and Indian tribes for sexual assault services programs.

Sec. 202. The bill preserves dedicated funding for fiscal years 2019 through 2023 for grants to States, territories and Indian tribes for rural domestic violence, dating violence, sexual assault, stalking, and child abuse enforcement assistance.

Sec. 203. The bill preserves dedicated funding to advance services for survivors with disabilities in fiscal years 2019 through 2023. It includes a minor language change directing funds for capacity-building to organizations to respond to victims of domestic violence, dating violence, sexual abuse, and stalking who are people with disabilities.

Sec. 204. The bill preserves dedicated funding to educate professionals on abuse in later life, enhance coordinated community response teams and advance services for older survivors of abuse. It introduces minor language changes to clarify eligibility criteria and expand who can receive training and education.

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

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

Sec. 301 The Rape Prevention & Education Program authorization would be increased to \$150 million under this bill. It requires that at least 80% of funds go to states, by formula, for community-based, culturally-specific prevention activities in collaboration with state sexual assault coalitions that work on rape prevention activities. The bill expands the categories for permitted use of funds to reflect the work grantees are engaged in to specifically address sexual harassment.

Sec. 302 The bill clarifies that funding under this program is being provided for the core areas of VAWA—domestic violence, dating violence, sexual assault, and stalking—and that services that target youth should also incorporate youth in underserved communities. It seeks to increase funding by \$10M annually for fiscal years 2019 through 2023. The bill directs that funds also be used to clarify State or local mandatory reporting policies and practices regarding peer-to-peer dating violence, sexual assault, and stalking. The bill would include sex trafficking and bullying as elements that can be addressed when part of a comprehensive youth violence response program.

Sec. 303 The bill improves campus grants programs to support institutions of higher education in developing *and* disseminating comprehensive prevention education for all students. The bill expands training for school-based personnel and campus health centers to meet the needs of young victims of violence.

Title IV: Violence Reduction Practices

Title IV was dramatically consolidated in 2013, and currently includes the SMART Prevention program which provides grants to: 1) reduce dating violence by providing education, training and skills development to young people; 2) provide healing services to children who have been exposed to violence in their homes; and 3) engage men as leaders and role models in preventing domestic violence, dating violence, and sexual assault and stalking.

Sec. 401 The bill clarifies that funds administered by the Centers for Disease Control and Prevention are to be appropriated for research on prevention and intervention programs whose goal is to reduce and prevent violence against adults, youth, and children. The bill also preserves dedicated funding for fiscal years 2019 through 2023 for these CDC grants.

Sec. 402 Under this bill, the SMART Prevention grants administered by the Attorney General would prioritize youth violence prevention programming that includes outcome-based evaluation, that does not duplicate existing efforts, and that has a significant focus on underserved populations. The bill restores the authorized appropriation for this program back to its originally authorized annual level of \$45M, for fiscal years 2019 through 2023.

Title V: Strengthening the Healthcare System’s Response to Domestic Violence, Dating Violence, Sexual Assault, and Stalking

One in three American women has experienced intimate partner violence in their lifetimes, with one in four having experienced severe physical violence. One in eight women report incidents requiring medical care as a result of the violence.

Sec. 501 The bill seeks to address the four “VAWA crimes”—domestic violence, dating violence, sexual assault, and stalking—across the lifespan, including addressing domestic and sexual violence experienced by older adults and children/youth. For these purposes, it preserves dedicated funding, through the Secretary of Health and Human Services, for fiscal years 2019 through 2023. This bill directs the Secretary to focus some of its grants on training programs to improve the capacity of early childhood programs to address their responses to domestic violence, dating violence, sexual assault, and stalking. It broadens the reach of grants that develop services to address the safety, medical, and mental health needs of patients, while maintaining their local focus of providing funds to state domestic and sexual violence coalitions to improve their capacity to coordinate with and support health advocates and other health system partnerships. The bill provides a portion of the funding to implement the Health Resources and Services Administration’s Strategy to Address Intimate Partner Violence and to support programming for community health centers, rural health providers and others who serve medically-underserved communities, through the Health Resources and Services Administration’s Office of Women’s Health.

Title VI – Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking

Domestic violence is the leading cause of homelessness for women and their children. The ability to provide housing is a vital part of supporting victims in leaving their abusers by allowing them to live safely in the community. Without housing, a victim must often choose between becoming homeless or remaining with their abuser. The Transitional Housing Program enhances the safety and security of victims, their children, and other dependents by supporting an array of services, such as the Housing Trust Fund, the Section 202 Direct Loan Program; renting supplemental units that have

not been converted to RAD-2; and administering a Rural Development Voucher Program.

Sec. 601 The bill clarifies that a “covered housing program” includes the direct loan program that provides supportive housing for the elderly and it adds three additional programs as VAWA covered programs--this reflects the authority of agencies to add additional programs. The bill clarifies that survivors cannot be evicted based on the criminal activity of a perpetrator. It prohibits eviction of a survivor due to the criminal activity of the perpetrator if the survivor works with the housing authority to exclude the perpetrator. In the event of a family break-up, a covered housing provider would be required to ensure that the victim retains the housing assistance. Early termination of a lease is permitted for a victim of domestic violence, dating violence, sexual assault, or stalking, as long as the tenant: (A) expressly sends notice of the early lease termination in writing; and (B)(i) reasonably believes that the tenant is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit subject to the lease; or (ii) the victim suffered sexual assault on the premises during the 90 day period preceding the request for lease termination. The bill requires coordination among agencies in the event that an emergency transfer plan needs to be prepared, and confidentiality measures must be adopted. The bill would permit transfer of tenants to non-covered housing if a transfer unit is not immediately available. Final regulations must be issued by the appropriate agency not later than 180 days after enactment.

Sec. 602 The bill establishes a Violence Against Women Director in HUD, and implements data collection and oversight practices. It also prohibits federal agencies from retaliating against persons exercising their rights under law. The bill confers the right to report crimes and emergencies from one’s home and prevents landlords, homeowners, residents and occupants, guests and housing applicants from being penalized if they request assistance based on criminal activity for which they are the victim.

Sec. 603 The bill preserves funding for fiscal years 2018 [sic] through 2023 for transitional housing grants for victims of domestic violence, dating violence, sexual assault, or stalking. It also makes such funds available to “population-specific organizations.”

Sec. 604 The bill makes eligibility for Continuum of Care grants (McKinney-Vento Homeless Assistance Grants) to those serving homeless individuals or families and also makes such grants available for use to facilitate and ensure compliance with the provisions of VAWA that provide housing protections for victims of domestic violence, dating violence, sexual assault, and stalking. The bill preserves funding for fiscal years 2018 [sic] through 2023 for collaborative grants to increase the long-term stability of victims who are homeless or at risk of becoming homeless.

TITLE VII – Economic Security For Victims

Domestic Violence is costly, resulting in \$4.9 billion dollars annually in direct costs: medical expenses, 70%; lost productivity, 15%; and lost lifetime earnings, 15%. Ninety-five percent of incidents occur in households with incomes below \$75,000.

Sec. 701 The bill reauthorizes the National Resource Center on Workplace Responses to assist victims of domestic and sexual violence, and increases authorization to \$2M annually for fiscal years 2019 through 2023.

Sec. 702 The bill provides that State unemployment compensation shall not be denied where an individual is separated from employment due to being a victim of sexual or other harassment, or a survivor of domestic violence, dating violence, sexual assault, or stalking. It ensures that individuals leaving a job for these reasons would be considered to have left their employment for “good cause.” The bill also provides for the training of unemployment compensation personnel and personnel of the Temporary Assistance for Needy Families (TANF) program, regarding these new provisions. It authorizes \$13M for fiscal year 2019 and \$12M for fiscal years 2020 through 2023 for the purposes of this section.

Sec. 703 The bill directs the Secretary of Health and Human Services, in consultation with the Secretary of Labor, to conduct a study on the barriers that survivors experience, throughout the United States, in maintaining economic security, as a result of issues related to domestic violence, dating violence, sexual assault, or stalking. The bill requires the issuance of recommendations to ensure successful implementation of provisions to ensure the economic security of survivors.

Sec. 704 The Comptroller General is directed to carry out a GAO study on the effects of domestic violence, dating violence, sexual assault, or stalking on survivors’ ability to continue their enrollment in institutions of higher education and their ability to repay their student loans. Among other things, the study would assess the ability of survivors to establish or maintain financial independence from their abusers.

Sec. 705 The bill directs various agencies to coordinate and provide a national public outreach and education campaign to raise public awareness of domestic violence, dating violence, sexual assault, and stalking, the resources and rights available for survivors, and best practices on prevention. The bill also directs that the Secretary of Labor and the Secretary of Health and Human Services conduct a study on the status of workplace responses to employees who experience domestic violence, dating violence, sexual assault, or stalking while employed.

Sec. 706 This section provides for severability, should any portions of this bill later be held unconstitutional.

TITLE VIII – Reducing Homicides And Improving Safety

Domestic violence claims at least 2,000 lives each year. Seventy percent of the victims are women. Most “intimate partner” homicides, in which a person targets a spouse, boyfriend or girlfriend, are committed with firearms.

Sec. 801 The bill redefines the terms “intimate partner” and “misdemeanor crime of violence.” An intimate partner will include a dating partner or former dating partner, and any other person similarly situated to a spouse. The bill also expands the definition of a misdemeanor crime of violence to include an offense under a published local ordinance and expands it also to the commission of an offense by an intimate partner. As a result, a person convicted of dating violence will be prohibited from possessing firearms or ammunition, closing a loophole in federal law that currently leaves up to half of victims of abuse unprotected.

Sec. 802 The bill prohibits persons convicted of misdemeanor stalking from possessing firearms and it makes it unlawful for a person to sell or transfer a firearm or ammunition to any person they believe, or have reasonable cause to believe, has been convicted of misdemeanor stalking.

Sec. 803 The bill prohibits respondents to *ex parte* protection orders from possessing firearms, as long as these individuals have been subject to appropriate due process to respond to the protection order. The bill also prohibits possession of firearms and ammunition by individuals subject to certain court orders issued at the request of an employer on behalf of an employee, or at the request of an institution of higher learning, on behalf of its students. Possession is also prohibited by a person subject to a court order that restrains such a person from intimidating a witness from testifying in court.

Sec. 804 The bill requires the National Instant Criminal Background Check System (NICS) to notify law enforcement when a prohibited person fails a background check after three business days and if the prohibited person has taken possession of the firearm. The appropriate agencies for notification are the relevant FBI field office and local, State and Tribal law enforcement.

Sec. 805 The bill requires the Attorney General, within 24 hours after the issuance of an NICS notice about a prohibited person, to issue a report to State, local, or tribal law enforcement and prosecutors in the jurisdiction where the person sought to acquire the firearm, or to law enforcement authorities and prosecutors in the person’s state of residence.

Sec. 806 The bill authorizes the Attorney General to use existing authority to deputize Special Assistant U.S. Attorneys in at least 75 jurisdictions, including tribal jurisdictions, with high rates of firearm-involved intimate partner violence, to enforce or assist the U.S. Attorneys' offices in prosecuting persons who have violated federal domestic violence firearms prohibitions. It also deputizes State, tribal, territorial and local prosecutors and law enforcement officers for the purpose of enhancing the work of the ATF in responding to intimate partner violence. The bill also requires ATF field offices and U.S. Attorney's Offices to appoint domestic violence points of contact to expedite requests for assistance from State, tribal, territorial and local law enforcement.

TITLE IX – Safety for Indian Women

Native women are victimized at rates higher than any other population in the United States. It is estimated that 56% of American Indian and Alaska Native women will experience sexual assault in their lifetimes and 55% will be subjected to domestic violence in their lifetimes. Forty-eight percent will experience stalking. The bill incorporates "Savanna's Act" (H.R. 4485), to improve the response to missing and murdered Native women. Co-occurring crimes in domestic violence cases are extremely common, and courts must be able to address these co-occurring crimes in order to hold the abuser fully accountable, while fully protecting all victims of the abuser's crimes. These co-occurring crimes can include the abuser's commission of child maltreatment, child sexual abuse, adult sexual violence, stalking, trafficking, kidnapping and other related conduct.

Sec. 901 The bill makes a number of findings regarding the extraordinarily high rates of murder committed and violent crimes perpetrated against American Indian and Alaska Native women. It clarifies the responsibilities of Federal, State, Tribal, and local governments with respect to responding to cases of missing and murdered Indians, increases coordination and communication among law enforcement agencies, empowers tribal governments with resources, and increases the collection of data and information-sharing related to missing and murdered Native women.

Sec. 902 The bill incorporates a number of relevant definitions.

Sec. 903 The bill requires updating of the online data entry format for various crime-related Federal databases, including the National Crime Information database (NCIC), to incorporate a new data field for the victim's Tribal enrollment or affiliation information. The Attorney General is required to formally consult with Indian Tribes about improving tribal data relevance and access to Federal databases, and to produce a report regarding a plan of action to improve access.

Sec. 904 The bill directs the Attorney General, in consultation with the Secretary of the Interior and with Indian Tribes, to review existing law enforcement and justice protocols pertaining to missing and murdered Indians, recommend and revise existing protocols, and develop new ones as necessary, to serve as guidance to law enforcement. It requires the Attorney General to make these protocols publicly available and to distribute them to law enforcement agencies. The bill also requires the Attorney General to require local U.S. Attorneys to develop written standard protocols to investigate cases of missing and murdered Indians, and requires implementation of such protocols.

Sec. 905 The bill requires the Attorney General to report annually, to Congressional committees, on missing and murdered Indian women and provide recommendations.

Sec. 906 The bill expands the jurisdiction of tribal authorities over non-Indians who commit crimes in Indian country, if the crime occurs within the territory of a participating tribe (i.e., one that provides certain due process guarantees). The Indian Civil Rights Act currently provides for a “special tribal domestic violence jurisdiction” that extends tribal jurisdiction to non-Indians over domestic violence offenses. This section would extend the jurisdiction of participating tribes over crimes other than just domestic violence offenses. Under existing law, non-Indians can be prosecuted in tribal court for domestic violence, dating violence, or a criminal violation of a protection order; this jurisdiction is reaffirmed in this bill. This section would authorize the prosecution of the following additional crimes: child violence; sexual violence; stalking; trafficking; and “related conduct.” Related conduct refers to the prosecution of non-Indians who have committed domestic violence or dating violence in Indian country or who have violated a tribal protection order, who resist or interfere with the prevention, detection, investigation, arrest, pretrial detention, prosecution, adjudication, or sentencing in relation to such offenses, and who carry out such resistance or interference in relation to certain tribal officers or agents.

Sec. 907 This bill authorizes \$3M, per fiscal year, for 2019 through 2023, for the Tribal Access Program, to enhance the ability of tribal government entities to enter information into and obtain information from Federal criminal information databases. This repurposes funding allocated under VAWA 2005 to create a tribal sex offender and protection order registry.

Sec. 908 The bill adds a new federal misdemeanor offense for violation of a tribal exclusion order. A person convicted of this offense could receive a \$5,000 fine and up to one year in prison. Persons who could be excluded from tribal land under an exclusion order would be those convicted of a violent crime (under tribal law and as defined by tribal law), or for the sale or distribution of controlled substances. The bill

would require service of the order (or for the person to have actual knowledge of it) and for the person to have knowingly violated its terms.

TITLE X – Office on Violence Against Women

Sec. 1001 The bill amends 34 U.S.C. 10442-10445 to update the name of the office in the Department of Justice charged with implementing VAWA, from the “Violence Against Women Office” to the “Office on Violence Against Women,” and adds to the jurisdiction of the Office, the VAWA reauthorization bills passed in 2005 and 2013 and this current reauthorization. It would also add a clerical amendment pertaining to the updated name of the Office. The bill clarifies that the Office on Violence Against Women must not be subsumed under any other grant-making office, division or agency within the U.S. Department of Justice, and it would make it one of the duties of the Director of the Office, in addition to providing technical assistance, to synchronize Federal definitions and protocols.

TITLE XI – Incarcerated Women

Sec. 1101 This section incorporates the “Ramona Brant Improvement of Conditions for Women in Federal Custody Act.” The bill directs the Director of the Bureau of Prisons (BOP) to establish an office to determine the placement of prisoners. The office would be required to place prisoners as close to their children as possible and to review the placement of transgender or intersex persons on a case-by-case basis, following a specific protocol. The bill generally prohibits segregated housing for prisoners who are pregnant, or in post-partum recovery, and it forbids the placement of restraints on a prisoner who is pregnant. The bill also requires the BOP to hold parenting classes for prisoners who are primary caretaker parents. It additionally requires training for corrections officers and BOP employees to learn to identify trauma among prisoners and to learn how to refer them to health professionals accordingly. The BOP is directed to furnish proper health care for all prisoners, including access to a gynecologist, and the provision of tampons, sanitary napkins, shampoo, toothpaste and toothbrushes. The Director of the BOP would also be required to issue regulations pertaining to sex-appropriate strip-searches and the use of restrooms by correctional officers that are reserved for prisoners of the opposite sex.

Sec. 1102 This section incorporates the “Stop Infant Mortality and Recidivism Reduction Act” or the “SIMARRA Act.” The bill directs the BOP to establish a pilot program to permit women incarcerated in the BOP and the children born to such women during incarceration to reside together while the prisoner serves a term of

imprisonment in a separate housing wing of the prison. Any inmate who is pregnant at the beginning of the term of imprisonment in the Bureau of Prisons would be eligible to apply for the program. Inmates would be selected to participate for up to 30 months, unless released from custody earlier. The bill directs the development of an offender risk and needs assessment system particular to the health sensitivities of federally incarcerated pregnant women and mothers; the development of recommendations for recidivism reduction programs and productive activities; and ongoing research and data analysis to determine whether revisions or updates to the program are appropriate. The bill would authorize \$10,000,000 per fiscal year, for five years, for this program.

TITLE XII – Other Matters

The bill preserves funding for fiscal years 2019 through 2023 for the following programs: the National Stalker and Domestic Violence Reduction (**Sec. 1201**), the Federal Victim Assistants Reauthorization (**Sec. 1202**), the Child Abuse Training Programs for Judicial Personnel and Practitioners (**Sec. 1203**), the Sex Offender Management Program (**Sec. 1204**), and the Court-Appointed Special Advocate (**Sec. 1205**). With regards to the DNA Analysis Backlog Elimination Act of 2000 (**Sec. 1206**), funding would be extended from 2020 through 2024.