

Why Nifong Did It
by Zed McLarnon © 2007
Excerpted from **Deconstructing America**

Why did District Attorney Michael Nifong falsely prosecute the Duke lacrosse players for rape with little or no credible evidence save the word of a stripper? This question was asked and speculated about on every news report and cable news network from ABC to Fox to CNN to MSNBC.

Why would an experienced District Attorney choose not to interview the stripper accusing the Duke lacrosse players of rape? Why, when the “victim’s” story and time-line started to change did District Attorney Nifong continue to treat her as a credible witness? And, finally, why did Nifong hold back evidence proving he knew the Duke athletes were innocent?

The answer that seemed to satisfy the media pundits was that District Attorney Nifong was running for re-election and wanted to be seen as tough on crime. Investigative reporters and journalists appeared on news and talk shows shaking their heads in wonder unable to explain why Nifong, a District Attorney with 25 years experience would act so irresponsibly – just to be re-elected?

This may be true – but only as a partial reason. The real answer is simple for those familiar with the legal industry – federal funding. The Violence Against Women Act (VAWA) provides billions of dollars in federal grants to state prosecutors, social workers, courts and judges every year. VAWA is only one of many federal incentive grants that drive the legal industry

VAWA was passed into law in 1994 during the Bill Clinton administration. As seasoned lawyers, Bill and Hillary Clinton understood that VAWA violated the Constitutional guarantee of “equal protection under the law” because VAWA provides a financial incentive to target and prosecute men - as in the Duke lacrosse case. President Clinton signed the Act into law knowing full well that it is an unconstitutional law. VAWA provides billions of dollars that drives the legal industry to which he and Hillary have an allegiance. And, false prosecutions provide a “legal tool” to be used by women to gain the upper hand in acrimonious divorces – or just for vengeance as in the Duke lacrosse case.

Various groups have voiced concern that VAWA violates due process, equal protection and other civil rights. The American Civil Liberties Union described VAWA as "troubling" and declared that the penalties were "rash" and the increased pretrial detention was "repugnant" to the US Constitution. The lacrosse players were paraded in front of the media as rapists when Michael Nifong's prosecutors knew they were innocent.

Dr. Stephen Baskerville, professor of government at Patrick Henry College states that false prosecutions are "the greatest and most destructive civil rights abuse in America today."

District Attorney Nifong belongs to a legal profession where government lawyers across the country plunder the Violence Against Women Act by treating every allegation of rape or abuse made by women seriously, no matter how weak or absurd the allegation may be.

Since 1994, police departments have trained their officers to arrest men whenever there is a domestic violence call – because there is a financial incentive to arrest the man and no financial incentive to arrest the woman. Now, no matter who started the domestic dispute, the man will be arrested because the arrest generates federal VAWA money for the police department. Fathers Rights Organizations across the country have been complaining about this for years.

The states train their judges as well as their prosecutors to also discriminate against and prosecute innocent men. If you think District Attorney Nifong was overly enthusiastic to prosecute, consider the fact that when a woman shows at court to accuse her husband or lover of abuse, the court holds a secret hearing in which a restraining order is almost automatically issued against the man. These secret hearings are sometimes called ex-parte hearings. The judge issues the restraining order even though the "accused" wasn't informed that the hearing was taking place, and was provided no opportunity to confront his accuser or defend against the [false] allegations.

Social workers such as Lisa Tsiesen Gary of Beth Israel Hospital in Boston, regularly submitted "clinical evaluations" condemning men as abusers after Ms. Gary interviewed only the woman. Ms. Gary admitted she "almost never interviews the abuser," as she refers to the male subjects of her "clinical evaluations." The evaluations of social workers such as Ms. Gary are considered "clinical" evaluations by judges and prosecutors.

David Douglas, a social worker who boasts he “trains Massachusetts judges, court personnel, police and social workers” also submitted “clinical evaluations” to the court that condemn men as abusers without ever having interviewed them. Mr. Douglas repeated the woman’s statements in his evaluations as fact, without asking the man for any statements.

“They’ve created a new set of crimes,” says Massachusetts Judge Milton Raphaelson. The “new” crimes the judge pointed to are non-crimes such as unintentionally violating a (false) restraining order. Judge Raphaelson explained that men are arrested because they were in a mall or supermarket when their estranged wives who had a restraining order against them showed up. She called the police and the man was arrested even though the police understood that the man was in the supermarket only to shop and had no idea his estranged wife would show up. The police arrest him because his “crime” is an opportunity for the police to “earn” VAWA money.

“Men such as these are regularly imprisoned,” said Judge Raphaelson “not because they committed a crime,” but as a result of judges and police trained to “create” violence against women to tap into the billions of dollars in VAWA money.

As an example of the corruptive effect VAWA has on judges, Massachusetts Judge Beverly Boorstein issued a restraining order against Mr. Daniel Iagatta, a quadriplegic confined to a wheelchair or hospital bed. Mr. Iagatta’s wife, who is divorcing him, requested a restraining order saying she was “afraid” of him. Mr. Iagatta cannot sit upright without being helped to do so. The legally defined standard for issuing a restraining order is “the threat of imminent serious physical harm.” Judge Boorstein issued the restraining order against Mr. Iagatta and “created” another statistic of violence against women. Judge Boorstein is typical of state judges across the land who ignore the law that restraining orders be issued only when there is a threat of “imminent serious physical harm” and issue restraining orders based on a woman’s claim of “fear.”

Judge Beverly Boorstein, like Michael Nifong, was caught illegally altering evidence to “find” men guilty of abuse. Judge Boorstein had court hearing tapes edited, the docket doctored and she refused to allow Mr. Iagatta tapes or transcripts of secret hearings she held in his case. Massachusetts Superior Court and Appeals Court have also been caught altering court records. The

Massachusetts Attorney General's Office chose not to defend against these very allegations in federal court.

Massachusetts Governor Deval Patrick, a lawyer, has been given forensic reports containing affidavits of three eyewitnesses and the reports of three audio engineers who found Judge Boorstein's hearing tapes were altered to remove testimony the three eyewitnesses stated under oath occurred at trial.

To date, Governor Patrick has done nothing regarding the crimes of prosecutors and judges in Massachusetts because these false prosecutions bring hundreds of millions of dollars each year to Massachusetts and the legal industry to which Gov. Patrick belongs. Quadriplegic, Dan Iagatta, lost his wheelchair-equipped house via an order issued by Judge Boorstein to pay for expenses such as a court-appointed Guardian ad Litem, which is mandated by law to be paid for by the court.

If lawyers and judges manipulate evidence to destroy a helpless quadriplegic, is there any wonder they would do the same to destroy well-to-do families such as the Duke lacrosse players' families? Mr. Iagatta has little to no access to his children, (ages 8 and 10).

The financial incentive of VAWA is clearly being plundered. Judge Milton Raphaelson sat on the Worcester District Court bench for ten years and stated that he experienced, "about 60% of all restraining order violations were based on false allegations of abuse." The Duke lacrosse prosecutions and Mr. Iagatta's case illustrate Judge Raphaelson's experience that "most allegations" of violence against women are based on false allegations. The collateral damage done to those accused drastically affects their careers and finances while all the while, siphoning resources and focus from those that may actually be abusers.

What happens to the women who are caught bringing false allegations to prosecutors and to the courts? The same thing that happened to the stripper who falsely accused the Duke lacrosse players – absolutely nothing. What happens to prosecutors such as Michael Nifong and judges who are caught plundering federal funds with cases they know are fraudulent?

"There's usually no penalty for government lawyers who incite their witnesses to commit perjury," reports Dr. Charles Heckman of the foundation A Matter of Justice (AMOJ). But because of the high visibility

of the Duke lacrosse players' case, Michael Nifong was temporarily disbarred and imprisoned for one day for falsely prosecuting the athletes.

Legal scholars ask "Why isn't the U.S. Attorney's Office prosecuting Nifong, Judge Beverly Boorstein or social workers, Lisa Gary or David Douglas or Governor Deval Patrick? They are all part of a legal industry that clearly plunders billions of dollars of taxpayer money each year under the guise of protecting women. When 60% of the cases are based on false allegations, society is asking if the intent of VAWA was ever about protecting women..

"Government officials who exercise virtually absolute control over the private lives of Americans have never been held accountable to anyone," reveals Dr. Baskerville. "They represent the most destructive and dangerous abuse of power in America today."

Since 1994, the Supreme Court and Judicial branch has known that VAWA violates "equal protection under the law" but has refused to strike it down as unconstitutional because it provides billions of dollars a year to the legal industry to which they have ultimate allegiance.

"The courts are a criminal enterprise to get money from the federal government, says Pennsylvania attorney Eugene Wrona, "the entire judicial system is corrupt."

Since 1994, millions of families such as the three Duke players' families have been destroyed by legal professionals such as Nifong without any thought whatever to the men and families that they destroy. Statistics reveal that more American families will be destroyed by law enforcement such as in the Duke lacrosse case than Al Qaeda ever could.

District Attorneys, judges, social workers "don't want to know" that the allegations are false because then they would lose the funding from the VAWA. The lacrosse players told the media that if they "didn't come from well-off families, they wouldn't have won." This statement sheds light on a major problem facing our country.

Think of how much money is transferred to the legal industry from cases such as the Duke rape case alone. District Attorney Nifong brought large amounts of VAWA federal funding into his department to prosecute the

Duke students. Secondly, the examination and physical and mental care of the “rape victim.” This is performed by social workers and women’s programs caseworkers. All of these people operate under the presumption that the “victim” is telling the truth to the point that everyone noted during the media sensationalism during the case.

“They have a vested interest in maintaining their income. They have a vested interest in maintaining their practice,” said Suzanne Shell, author of “Profane Justice.”

The three defense teams for the Duke students took one million dollars collectively from the three Duke athletes’ families to defend against the false prosecution.

The court and police department “gained” billable hours for its judge and staff

Dr. Stephen Baskerville describes prosecutors and judges that allow false allegations of abuse as “a government-run system that tears apart families, confiscates the wealth of families, and turns law-abiding citizens into criminals in ways they are powerless to avoid. This federal funding is having a terribly corruptive effect on journalists, on academics on prosecutors and on the court officials of all kinds.”

“They’ve created an industry out of nothing,” revealed Judge Milton Raphaelson. “They set up committees, wrote laws, created jobs,” he explained. “It’s a trick they’ve played on all of us.”

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Violence Against Women Act

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The **Violence Against Women Act of 1994 (VAWA)** is a [United States federal law](#). It was passed as Title IV, sec. 40001-40703 of the [Violent Crime Control and Law Enforcement Act of 1994](#) HR 3355 and signed as Public Law 103-322 by [President Bill Clinton](#) on [September 13, 1994](#). It provided \$1.6 billion to enhance investigation and prosecution of the violent crime perpetrated against women, increased pre-trial detention of the accused, provided for automatic and mandatory restitution of those convicted, and allowed civil redress in cases prosecutors chose to leave unprosecuted. The [National Organization of Women](#) heralded the bill as "the greatest breakthrough in civil rights for women in nearly two decades."

VAWA and the 1994 Crime Bill in general was written by Democratic Senator [Joe Biden](#), supported by Congressional [Democrats](#) and President Clinton, and opposed by then minority Congressional [Republicans](#) with a few exceptions. ^[1]

VAWA was reauthorized by [Congress](#) in 2000, and again in October 2005, when it passed the [Senate](#) unanimously. The bill was signed into law by President George W. Bush on [January 5, 2006](#).^[1] The latest version for the first time also recognizes male victims of domestic violence and sexual assault.^[2]

VAWA will be up for reauthorization in 2010.

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[\[edit\]](#) Civil Rights Violations

Various groups have voiced concerns that VAWA violates due process, equal protection, and other civil rights violations.

The [American Civil Liberties Union](#) derided the Act as "troubling", saying that the increased penalties were rash, the increased pretrial detention was "repugnant" to the US Constitution, the mandatory HIV testing of those only charged but not convicted is an infringement of a citizen's [right to privacy](#) and the edict for automatic payment of full restitution was non-judicious in their paper "Analysis of Major Civil Liberties Abuses in the Crime Bill Conference Report as Passed by the House and the Senate", dated [September 29, 1994](#). However, the ACLU has supported its reauthorization on the condition that the "unconstitutional DNA provision" be removed.^[3]

In 2000, the [Supreme Court of the United States](#) held part of VAWA unconstitutional in [United States v. Morrison](#). Only the civil rights remedy of VAWA was struck down. The provisions providing program funding were unaffected.

RADAR (Respecting Accuracy in Domestic Abuse Reporting) has issued a series of investigative reports on VAWA. These reports document widespread abuses in terms of male DV victims being treated as perpetrators^[2], restraining orders issued with no claim

of physical violence [3], persons are falsely accused and arrested [4], and constitutional protections are circumvented [5].

[edit] International Perspectives

The World Conference on [Human Rights](#), held in Vienna in 1993, and the [Declaration on the Elimination of Violence against Women](#) [6] in the same year, concluded that civil society and governments have acknowledged that domestic violence is a public health policy and human rights concern.

Nonetheless, the task of documenting the magnitude of intimate partner violence and producing reliable, comparative data to guide policy and monitor implementation has been difficult. Two recent studies provide contrasting views on domestic violence around the world.

In the first study, professor Murray Straus of the University of New Hampshire interviewed 13,601 men and women in dating relationships in 32 countries around the world. Overall, Straus found that 31% of couples had engaged in any act of physical violence such as shoving, slapping, or punching. Among those couples that did engage in physical aggression, 68.6% of the couples engaged in mutual violence, 21.4% was initiated by the female, and 9.9% was male-only aggression. [Table 2](#). Even for severe violence, women were twice as likely as men to initiate the violence [Table 3].

The [World Health Organisation Multi-country Study on Women's Health and Domestic Violence against Women](#) [7] is a second study. Released in 2005, the study analysed data from 10 countries and sheds new light on the prevalence of violence against women. It seeks to look at domestic violence from a public health policy perspective. The WHO study has been criticized, however, on the grounds that it neglected to interview men or consider male victimization, and that its training methods were biased[8].

The findings from these two studies can be used to inform a more effective response from [government](#), including the health, justice and social service sectors, as a step towards fulfilling the state's obligation to curtail domestic violence under international human rights laws.

[edit] Criticisms

Critics of VAWA cite studies, such as the analysis by Martin S. Fiebert of the Department of Psychology at [California State University, Long Beach](#), who compiled 195 scholarly investigations: 152 empirical studies and 43 analyses, which demonstrate women are as physically aggressive, or more aggressive, than men ^[4]. That aggregate sample size exceeds 175,700.

The Supreme Court struck down the part of the bill which gave women legal standing to sue for battery and rape in 2000. ^[citation needed]

[edit] References

1. [^](http://www.whitehouse.gov) www.whitehouse.gov
2. [^](http://www.reason.com/news/show/32056.html) <http://www.reason.com/news/show/32056.html>
3. [^](#) [Tell Congress to Support the Violence Against Women Act](#)
4. [^](http://www.csulb.edu) www.csulb.edu

[edit] External links

- [Create an e-annoyance, go to jail](#)

- [Privacy Provisions of the Violence Against Women Act](#)
- [World Health Organisation Multi-country Study on Women's Health and Domestic Violence against Women 2005](#)
- [Family Violence Prevention Fund](#)
- [Violence Against Women Act Reauthorization](#)
- [Read Congressional Research Service \(CRS\) Reports regarding the Violence Against Women Act](#)
- [Is the Violence Against Women Act \(VAWA\) a good law?](#)
- [RADAR](#)
- [Stop Abuse For Everyone](#)

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VIOLENCE AGAINST WOMEN ACT OF 2000 AS PASSED BY THE SENATE AND HOUSE OF REPRESENTATIVES

Total authorization over 5 years is \$3.33 billion.

Sec. 1001. Short Title

Sec 1002. Definitions - refers to already existing definitions of domestic violence and sexual assault

Sec 1003. Accountability and Oversight - requires all grantees under VAWA to submit report on effectiveness of VAWA funded programs.

TITLE I - STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

Sec. 1101. Full Faith and Credit Enforcement of Protection Orders - Re-names pro-arrest grants to expressly include enforcement of protection orders, and is designed to help state and tribal courts improve interstate enforcement of protection orders. This section gives tribal courts full civil jurisdiction to enforce protection orders and also prioritizes the development and enhancement of data collection and sharing systems, and instructs the Department of Justice to identify and make available information on protection order enforcement practices.

In addition, it amends the full faith and credit provision in the original Act to prohibit registration as a prerequisite to enforcement of out-of-state orders, and to prohibit notification of a batterer without the victim's consent when an out-of-state order is registered in a new jurisdiction. As a condition of funding, recipients of STOP and Pro-Arrest grants must ensure filing and service of protection orders at no cost to the victim.

Sec. 1102. Role of Courts - This section funds the training and education of court personnel, technical assistance, and technological improvements. It also amends STOP and Pro-Arrest grants to make state and local courts expressly eligible for funding and dedicates five percent of states' STOP grants to courts. 5% set aside for Indian Tribal governments.

Sec. 1103. Reauthorization of STOP (Services and Training for Officers and Prosecutors) Grants - Authorized at \$185 million/year through 2005 (fiscal year 2000 appropriation was \$206.75 million, including \$28 million earmarked for civil legal assistance). This section reauthorizes grants to bring police and prosecutors in close collaboration with victim services providers. It preserves VAWA's original allocations of states' STOP grants (25 percent to police and 25 percent to prosecutors), but increases grants to victim services to 30 percent (from 25 percent), and allocates 5 percent allocated to state courts. Raises small state minimum to \$600,000 per year. 2.5% set-aside each for State domestic violence and sexual assault coalitions off the top, and the allocation for Indian tribes is increased to 5 percent (up from 4 percent in the original Act). Also expands purpose areas to includes coverage of forensic medical examiners and multidisciplinary approaches.

Sec. 1104. Reauthorization of Grants to Encourage Arrest Policies - Authorized at \$65 million/year through 2005 (fiscal year 2000 appropriation was \$34 million). This section extends grants to develop and strengthen programs and policies that mandate and encourage police officers to arrest abusers who commit acts of violence or violate protection orders.

Sec. 1105. Reauthorization of Rural Domestic Violence and Child Abuse Enforcement Grants - Authorized at \$40 million/year through 2005 (FY2000 appropriation was \$25 million). This section extends direct grants to state and local governments for services in rural areas. 5% set aside for Indian tribal governments.

Sec. 1106. National Stalker and Domestic Violence Reduction - Authorized at \$3 million/year 2001 through 2005 (fiscal year 1998 appropriation was \$2.75 million). This section extends grant programs that help state and local governments improve databases dealing with stalking and domestic violence.

Sec. 1107. Amendments to Domestic Violence and Stalking Offenses - This section clarifies federal jurisdiction over persons crossing state lines (including foreign travel), and expands federal jurisdiction to include battery to cause travel. This section also makes the nature of harm uniform for domestic violence, sexual assault and stalking interstate travel offenses, and clarifies the "Interstate Violation of Protection Order" section.

Sec. 1108. Grants to Reduce Violent Crimes Against Women on Campus - Authorized at \$10 million/year 2001 through 2005 (fiscal year 2000 STOP grant appropriation included a \$10 million earmarked for this use). This section reauthorizes grants for on-campus security, education, training, and victim services to combat violence against women on college campuses. It also creates a definition of dating violence and includes coverage of dating relationships in the program. Also authorizes \$30 million per year 2001 through 2003 to increase campus security including metal detectors.

Sec. 1109. Dating Violence - Creates definition of dating violence and expands STOP grants, Grants to Encourage Arrest Policies and Rural Grants to cover dating violence.

TITLE II - STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

Sec. 1201. Legal Assistance for Victims - Authorized at \$40 million/year through 2005 (fiscal year 2000 STOP grant appropriation included \$28 million earmarked for this use). Building on

funds set-aside under past STOP grants, this section authorizes a separate grant program for civil legal services for protection orders and family, criminal, immigration, administrative agency, and housing matters. This section allows victims of domestic violence, stalking, and sexual assault to obtain access to trained attorneys and lay advocacy services, particularly pro bono legal services, when they require legal assistance as a consequence of violence. These grants support training, technical assistance, data collection, and support for cooperative efforts between victim advocacy groups and legal assistance providers. 25% set-aside for projects that focus on providing legal services to sexual assault survivors. 5% set aside for Tribal programs.

Sec. 1202. Shelter Services for Battered Women and Children - Authorized at \$175 million/year through 2005 (fiscal year 2000 appropriation was \$101.5 million). This section reauthorizes Department of Health and Human Services programs that help communities provide shelter to battered individuals and their children. Increases small state minimum to \$600,000 per year. -

Sec. 1203. Transitional Housing Assistance for Victims of Domestic Violence - authorized at \$25 million for 2001 This section allows the department of health and human services to make grants providing short-term (generally up to 12 months with possibility of additional 6 months waiver) housing assistance and support services to individuals and their dependents who are homeless, in need of transitional housing or other assistance as a result of fleeing domestic violence. These services are authorized when emergency shelter services are unavailable or insufficient.

Sec. 1204. National Domestic Violence Hotline - Authorized at \$2 million/year through 2005 (fiscal year 2000 appropriation was \$2 million). This section reauthorizes the National Domestic Violence Hotline established under the original Violence Against Women Act.

Sec. 1205. Federal Victims Counselors - Authorized at \$1 million/year through 2005 (fiscal year 1998 appropriation was \$1 million). This section extends programs supporting U.S. Attorney offices to hire counselors to assist victims and witnesses in prosecution of domestic violence and sexual assault cases.

Sec. 1206. Study of State Laws Regarding Insurance Discrimination Against Victims of Violence Against Women - This section requires the Attorney General to conduct a national study identifying state laws that address insurance discrimination against victims of domestic violence, and submit recommendations to Congress based on the findings.

Sec. 1207. Study of Workplace Effects from Violence Against Women - This section requires the Attorney General to conduct a national survey of programs demonstrating appropriate workplace responses to victims of domestic violence or sexual assault, and submit recommendations to Congress.

Sec. 1208. Study of Unemployment Compensation For Victims of Violence Against Women - This section requires the Attorney General to conduct a national study to identify the impact of state unemployment compensation laws on victims of domestic violence who are separated from their employment as a direct result of violence, and submit recommendations to Congress.

Sec. 1209. Enhancing Protections for Older and Disabled Women from Domestic Violence

and Sexual Assault - Authorized at \$5 million/yr for 2001-2005. Training programs for law enforcement. This section allows STOP grants, Pro-Arrest grants, and shelter programs to be used to develop, policies and initiatives that address the needs of older and disabled individuals who are victims of domestic violence or sexual assault.

TITLE III - LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

Sec. 1301. Safe Havens for Children Pilot Program - Authorized at \$15 million/year through 2002. This section establishes a pilot Justice Department grant program aimed at reducing domestic violence during the transfer of children for visitation by expanding the availability of supervised visitation and safe visitation exchange for the children of victims of domestic violence, child abuse, or sexual assault. 5% set aside to Tribal programs.

Sec. 1302. Reauthorization of Victims of Child Abuse Programs - Authorized at \$12 million/year for the special advocate program, \$2.3 million/year for the judicial personnel training program, and \$1 million/year for televised testimony through 2005 (fiscal year 2000 appropriations were \$10 million, \$2.3 million, and \$1 million respectively). This section extends grant programs geared towards assisting children who are victims of abuse, such as the court-appointed special advocate program, child abuse training for judicial personnel and practitioners, and grants for the televised testimony of children.

Sec. 1303. Report on Effects of Parental Kidnapping Laws in Domestic Violence Cases - Authorized at \$200,000 for fiscal year 2001. This section requires the Attorney General to study the Parental Kidnapping Act, the Uniform Child Custody Jurisdiction and Enforcement Act adopted by the National Conference of Commissioners on Uniform State Laws, and custody provisions in protection orders where domestic violence is a factor, in order to submit recommendations for the modification of child custody laws. This section also clarifies when emergency jurisdiction may be granted.

TITLE IV - STRENGTHENING EDUCATION & TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

Sec. 1401. Rape Prevention and Education Program Reauthorization - Authorized at \$80 million/year through 2005 (FY 2000 appropriation was \$45 million). This section reauthorizes the Sexual Assault Education and Prevention Grant program, which includes education for college students and funding to continue the National Resource Center on Sexual Assault at the Centers for Disease Control and Prevention. Repeals original training program for sex offender probation/parole officers.

Sec. 1402. Education and Training to End Violence Against and Abuse of Women with Disabilities - Authorized at \$7.5 million/year through 2005. This section establishes a new grant program to provide education and technical assistance to service providers to better meet the needs of disabled individuals who are victims of domestic violence, sexual assault, and stalking.

Sec. 1403. Reauthorization of Community Initiatives to Prevent Domestic Violence - Authorized at \$6 million/year through 2005 (FY 2000 appropriation was \$6 million). This section reauthorizes grants for collaborative community projects targeted towards intervention and the prevention of domestic violence.

Sec. 1404. Development of Research Agenda Identified under the Violence Against Women Act of 1994 - Authorized at such sums as are necessary. This section requires the Attorney General, in cooperation with other organizations, to implement a research agenda based on the recommendations in the National Academy of Sciences report, "Understanding Violence Against Women."

Sec. 1405 Standards, practice, and training for sexual assault examinations - evaluates existing standards of training, practice and payment of forensic examinations and recommends a national protocol. Authorizes \$200,00 for fiscal year 2001.

Sec. 1406. Education and Training for Judges and Court Personnel - reauthorizes funding for federal (\$500,000 for each year for 2001 through 2005) and state judicial training (\$1.5 million each year for 2001-2005) on violence against women; adds a training component regarding domestic violence and child sexual abuse in custody determinations; adds coverage of dating violence in training.

Sec. 1407. Domestic Violence Task Force - creates multiagency task force to coordinate research on domestic violence and insure no duplication in research efforts. Authorizes \$500,000 per year for 2001 through 2004

TITLE V - BATTERED IMMIGRANT WOMEN

Generally designed to improve on efforts made in VAWA 1994 to prevent immigration law from being used by an abusive citizen or lawful permanent resident spouse as a tool to prevent an abused immigrant spouse from reporting abuse or leaving the abusive relationship. This could happen because generally speaking, U.S. immigration law gives citizens and lawful permanent residents the right to petition for their spouses to be granted a permanent resident visa, which is the necessary prerequisite for immigrating to the United States. In the vast majority of cases, granting the right to seek the visa to the citizen or lawful permanent resident spouse makes sense, since the purpose of family immigration visas is to allow U.S. citizens or lawful permanent residents to live here with their spouses and children. But in the unusual case of the abusive relationship, an abusive citizen or lawful permanent resident can use control over his or her spouse's visa as a means to blackmail and control the spouse. The abusive spouse would do this by withholding a promised visa petition and then threatening to turn the abused spouse in to the immigration authorities if the abused spouse sought to leave the abuser or report the abuse.

VAWA 1994 changed this by allowing immigrants who demonstrate that they have been battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent resident spouses to file their own petitions for visas without the cooperation of their abusive spouse. VAWA 1994 also allowed abused spouses placed in removal proceedings to seek "cancellation of removal," a form of discretionary relief from removal available to individuals in unlawful immigration status with strong equities, after three years rather than the seven ordinarily required. Finally, VAWA 1994 granted similar rights to minor children abused by their citizen or lawful permanent resident parent, whose immigration status, like that of the abused spouse, would otherwise be dependent on the abusive parent. VAWA 2000 addresses residual immigration law obstacles standing in the path of battered immigrant spouses and children seeking to free themselves from abusive relationships that either had not come to the attention

of the drafters of VAWA 1994 or have arisen since as a result of 1996 changes to immigration law.

Sec. 1501. Short Title - Names this title the Battered Immigrant Women Protection Act of 2000.

Sec. 1502. Findings and Purposes - Lays out as the purpose of the title building on VAWA 1994's efforts to enable battered immigrant spouses and children to free themselves of abusive relationships and report abuse without fear of immigration law consequences controlled by their abusive citizen or lawful permanent resident spouse or parent.

Sec. 1503. Improved Access to Immigration Protections of the Violence Against Women Act of 1994 for Battered Immigrant Women - Allows abused spouses and children who have already demonstrated to the INS that they have been the victims of battery or extreme cruelty by their spouse or parent to file their own petition for a lawful permanent resident visa without also having to show they will suffer "extreme hardship" if forced to leave the U.S., a showing that is not required if their citizen or lawful permanent resident spouse or parent files the visa petition on their behalf. Eliminates U.S. residency as a prerequisite for a battered spouse or child of a citizen or lawful permanent resident to file for his or her own visa, since there is no such prerequisite for a citizen or permanent resident spouse to file for a visa on behalf of his or her spouse or child. Retains current law's special requirement that abused spouses and children filing their own petitions (unlike spouses and children for whom their citizen or lawful permanent resident spouse or parent petitions) demonstrate good moral character, but modifies it to give the Attorney General authority to find good moral character despite certain otherwise disqualifying acts if those acts were connected to the abuse.

Allows a victim of battery or extreme cruelty who believed himself or herself to be a citizen's or lawful permanent resident's spouse and went through a marriage ceremony to file a visa petition as a battered spouse if the marriage was not valid solely on account of the citizen's or lawful permanent resident's bigamy. Allows a battered spouse whose citizen spouse died, whose spouse lost citizenship, whose spouse lost lawful permanent residency, or from whom the battered spouse was divorced to file a visa petition as an abused spouse within two years of the death, loss of citizenship or lawful permanent residency, or divorce, provided that the loss of citizenship, status or divorce was connected to the abuse suffered by the spouse. Allows a battered spouse to naturalize after three years residency as other spouses may do, but without requiring the battered spouse to live in marital union with the abusive spouse during that period.

Allows abused children or children of abused spouses whose petitions were filed when they were minors to maintain their petitions after they attain age 21, as their citizen or lawful permanent resident parent would be entitled to do on their behalf had the original petition been filed during the child's minority, treating the petition as filed on the date of the filing of the original petition for purposes of determining its priority date.

Sec. 1504. Improved Access to Cancellation of Removal and Suspension of Deportation under the Violence Against Women Act of 1994 - Clarifies that with respect to battered immigrants, IIRIRA's rule, enacted in 1996, that provides that with respect to any applicant for cancellation of removal, any absence that exceeds 90 days, or any series of absences that exceed 180 days, interrupts continuous physical presence, does not apply to any absence or portion of

an absence connected to the abuse. Makes this change retroactive to date of enactment of IIRIRA. Directs Attorney General to parole children of battered immigrants granted cancellation until their adjustment of status application has been acted on, provided the battered immigrant exercises due diligence in filing such an application.

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Addresses two problems created for battered immigrants' access to cancellation of removal by IIRIRA in 1996: the stop-time rule and the cap on adjustments of status imposed by that law. In order to address problems created by individuals gaming the system to gain access to cancellation of removal, IIRIRA stopped the clock on accruing any time toward continuous physical presence at the time INS initiates removal proceedings against an individual. This section eliminates application of this rule to battered immigrant spouses and children, who, if they are sophisticated enough about immigration law and had sufficient freedom of movement to "game the system", presumably would have filed self-petitions, and more likely do not even know that INS has initiated proceedings against them because their abusive spouse or parent has withheld their mail. To implement this change, allows battered immigrant spouses and children to file motions to reopen removal and deportation proceedings without regard to the 90 day deadline on such motions provided they file a motion to reopen within one year of the order of removal or deportation and file a complete application to be classified as VAWA-eligible at the time they file reopening motion, unless they could demonstrate extraordinary circumstances or extreme hardship to their children.

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Sec. 1513. Protection for Certain Crime Victims Including Victims of Crimes Against Women - Creates new nonimmigrant visa for victims of certain serious crimes that tend to target vulnerable foreign individuals without immigration status if the victim has suffered substantial physical or mental abuse as a result of the crime, the victim has information about the crime, and a law enforcement official or a judge certifies that the victim has been helpful, is being helpful, or is likely to be helpful in investigating or prosecuting the crime. The crime must involve rape, torture, trafficking, incest, sexual assault, domestic violence, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, attempt or conspiracy to commit any of the above, or other similar conduct in violation of Federal, State, or local criminal law. Caps visas at 10,000 per fiscal year. Allows Attorney General to adjust these individuals to lawful permanent

resident status if the alien has been present for 3 years and the Attorney General determines this is justified on humanitarian grounds, to promote family unity, or is otherwise in the public interest.

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VIOLENCE AGAINST WOMEN ACT OF 2000 AS PASSED BY THE SENATE AND HOUSE OF REPRESENTATIVES

Total authorization over 5 years is \$3.33 billion.

Sec. 1001. Short Title

Sec 1002. Definitions - refers to already existing definitions of domestic violence and sexual assault

Sec 1003. Accountability and Oversight - requires all grantees under VAWA to submit report on effectiveness of VAWA funded programs.

TITLE I - STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

Sec. 1101. Full Faith and Credit Enforcement of Protection Orders - Re-names pro-arrest grants to expressly include enforcement of protection orders, and is designed to help state and tribal courts improve interstate enforcement of protection orders. This section gives tribal courts full civil jurisdiction to enforce protection orders and also prioritizes the development and enhancement of data collection and sharing systems, and instructs the Department of Justice to identify and make available information on protection order enforcement practices.

In addition, it amends the full faith and credit provision in the original Act to prohibit registration as a prerequisite to enforcement of out-of-state orders, and to prohibit notification of a batterer without the victim's consent when an out-of-state order is registered in a new jurisdiction. As a condition of funding, recipients of STOP and Pro-Arrest grants must ensure filing and service of protection orders at no cost to the victim.

Sec. 1102. Role of Courts - This section funds the training and education of court personnel, technical assistance, and technological improvements. It also amends STOP and Pro-Arrest grants to make state and local courts expressly eligible for funding and dedicates five percent of states' STOP grants to courts. 5% set aside for Indian Tribal governments.

Sec. 1103. Reauthorization of STOP (Services and Training for Officers and Prosecutors) Grants -

Authorized at \$185 million/year through 2005 (fiscal year 2000 appropriation was \$206.75 million, including \$28 million earmarked for civil legal assistance). This section reauthorizes grants to bring police and prosecutors in close collaboration with victim services providers. It preserves VAWA's original allocations of states' STOP grants (25 percent to police and 25 percent to prosecutors), but increases grants to victim services to 30 percent (from 25 percent), and allocates 5 percent allocated to state courts. Raises small state minimum to \$600,000 per year. 2.5% set-aside each for State domestic violence and sexual assault coalitions off the top, and the allocation for Indian tribes is increased to 5 percent (up from 4 percent in the original Act). Also expands purpose areas to includes coverage of forensic medical examiners and multidisciplinary approaches.

Sec. 1104. Reauthorization of Grants to Encourage Arrest Policies - Authorized at \$65 million/year through 2005 (fiscal year 2000 appropriation was \$34 million). This section extends grants to develop and strengthen programs and policies that mandate and encourage police officers to arrest abusers who commit acts of violence or violate protection orders.

Sec. 1105. Reauthorization of Rural Domestic Violence and Child Abuse Enforcement Grants - Authorized at \$40 million/year through 2005 (FY2000 appropriation was \$25 million). This section extends direct grants to state and local governments for services in rural areas. 5% set aside for Indian tribal governments.

Sec. 1106. National Stalker and Domestic Violence Reduction - Authorized at \$3 million/year 2001 through 2005 (fiscal year 1998 appropriation was \$2.75 million). This section extends grant programs that help state and local governments improve databases dealing with stalking and domestic violence.

Sec. 1107. Amendments to Domestic Violence and Stalking Offenses - This section clarifies federal jurisdiction over persons crossing state lines (including foreign travel), and expands federal jurisdiction to include battery to cause travel. This section also makes the nature of harm uniform for domestic violence, sexual assault and stalking interstate travel offenses, and clarifies the "Interstate Violation of Protection Order" section.

Sec. 1108. Grants to Reduce Violent Crimes Against Women on Campus - Authorized at \$10 million/year 2001 through 2005 (fiscal year 2000 STOP grant appropriation included a \$10 million earmarked for this use). This section reauthorizes grants for on-campus security, education, training, and victim services to combat violence against women on college campuses. It also creates a definition of dating violence and includes coverage of dating relationships in the program. Also authorizes \$30 million per year 2001 through 2003 to increase campus security including metal detectors.

Sec. 1109. Dating Violence - Creates definition of dating violence and expands STOP grants, Grants to Encourage Arrest Policies and Rural Grants to cover dating violence.

TITLE II - STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

Sec. 1201. Legal Assistance for Victims - Authorized at \$40 million/year through 2005 (fiscal year 2000 STOP grant appropriation included \$28 million earmarked for this use). Building on funds set-aside under past STOP grants, this section authorizes a separate grant program for civil legal services for protection orders and family, criminal, immigration, administrative agency, and housing matters. This section allows victims of domestic violence, stalking, and sexual assault to obtain access to trained attorneys and lay advocacy services, particularly pro bono legal services, when they require legal assistance as a consequence of violence. These grants support training, technical assistance, data collection, and support for cooperative efforts between victim advocacy groups and legal assistance providers. 25% set-aside for projects that focus on providing legal services to sexual assault survivors. 5% set aside for Tribal programs.

Sec. 1202. Shelter Services for Battered Women and Children - Authorized at \$175 million/year through 2005 (fiscal year 2000 appropriation was \$101.5 million). This section reauthorizes Department of Health and Human Services programs that help communities provide shelter to battered individuals and their children. Increases small state minimum to \$600,000 per year. -

Sec. 1203. Transitional Housing Assistance for Victims of Domestic Violence - authorized at \$25 million for 2001 This section allows the department of health and human services to make grants providing short-term

(generally up to 12 months with possibility of additional 6 months waiver) housing assistance and support services to individuals and their dependents who are homeless, in need of transitional housing or other assistance as a result of fleeing domestic violence. These services are authorized when emergency shelter services are unavailable or insufficient.

Sec. 1204. National Domestic Violence Hotline - Authorized at \$2 million/year through 2005 (fiscal year 2000 appropriation was \$2 million). This section reauthorizes the National Domestic Violence Hotline established under the original Violence Against Women Act.

Sec. 1205. Federal Victims Counselors - Authorized at \$1 million/year through 2005 (fiscal year 1998 appropriation was \$1 million). This section extends programs supporting U.S. Attorney offices to hire counselors to assist victims and witnesses in prosecution of domestic violence and sexual assault cases.

Sec. 1206. Study of State Laws Regarding Insurance Discrimination Against Victims of Violence Against Women - This section requires the Attorney General to conduct a national study identifying state laws that address insurance discrimination against victims of domestic violence, and submit recommendations to Congress based on the findings.

Sec. 1207. Study of Workplace Effects from Violence Against Women - This section requires the Attorney General to conduct a national survey of programs demonstrating appropriate workplace responses to victims of domestic violence or sexual assault, and submit recommendations to Congress.

Sec. 1208. Study of Unemployment Compensation For Victims of Violence Against Women - This section requires the Attorney General to conduct a national study to identify the impact of state unemployment compensation laws on victims of domestic violence who are separated from their employment as a direct result of violence, and submit recommendations to Congress.

Sec. 1209. Enhancing Protections for Older and Disabled Women from Domestic Violence and Sexual Assault - Authorized at \$5 million/yr for 2001-2005. Training programs for law enforcement. This section allows STOP grants, Pro-Arrest grants, and shelter programs to be used to develop policies and initiatives that address the needs of older and disabled individuals who are victims of domestic violence or sexual assault.

TITLE III - LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

Sec. 1301. Safe Havens for Children Pilot Program - Authorized at \$15 million/year through 2002. This section establishes a pilot Justice Department grant program aimed at reducing domestic violence during the transfer of children for visitation by expanding the availability of supervised visitation and safe visitation exchange for the children of victims of domestic violence, child abuse, or sexual assault. 5% set aside to Tribal programs.

Sec. 1302. Reauthorization of Victims of Child Abuse Programs - Authorized at \$12 million/year for the special advocate program, \$2.3 million/year for the judicial personnel training program, and \$1 million/year for televised testimony through 2005 (fiscal year 2000 appropriations were \$10 million, \$2.3 million, and \$1 million respectively). This section extends grant programs geared towards assisting children who are victims of abuse, such as the court-appointed special advocate program, child abuse training for judicial personnel and practitioners, and grants for the televised testimony of children.

Sec. 1303. Report on Effects of Parental Kidnapping Laws in Domestic Violence Cases - Authorized at \$200,000 for fiscal year 2001. This section requires the Attorney General to study the Parental Kidnapping Act, the Uniform Child Custody Jurisdiction and Enforcement Act adopted by the National Conference of Commissioners on Uniform State Laws, and custody provisions in protection orders where domestic violence is a factor, in order to submit recommendations for the modification of child custody laws. This section also clarifies when emergency jurisdiction may be granted.

TITLE IV - STRENGTHENING EDUCATION & TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

Sec. 1401. Rape Prevention and Education Program Reauthorization - Authorized at \$80 million/year through

2005 (FY 2000 appropriation was \$45 million). This section reauthorizes the Sexual Assault Education and Prevention Grant program, which includes education for college students and funding to continue the National Resource Center on Sexual Assault at the Centers for Disease Control and Prevention. Repeals original training program for sex offender probation/parole officers.

Sec. 1402. Education and Training to End Violence Against and Abuse of Women with Disabilities - Authorized at \$7.5 million/year through 2005. This section establishes a new grant program to provide education and technical assistance to service providers to better meet the needs of disabled individuals who are victims of domestic violence, sexual assault, and stalking.

Sec. 1403. Reauthorization of Community Initiatives to Prevent Domestic Violence - Authorized at \$6 million/year through 2005 (FY 2000 appropriation was \$6 million). This section reauthorizes grants for collaborative community projects targeted towards intervention and the prevention of domestic violence.

Sec. 1404. Development of Research Agenda Identified under the Violence Against Women Act of 1994 - Authorized at such sums as are necessary. This section requires the Attorney General, in cooperation with other organizations, to implement a research agenda based on the recommendations in the National Academy of Sciences report, "Understanding Violence Against Women."

Sec. 1405 Standards, practice, and training for sexual assault examinations - evaluates existing standards of training, practice and payment of forensic examinations and recommends a national protocol. Authorizes \$200,00 for fiscal year 2001.

Sec. 1406. Education and Training for Judges and Court Personnel - reauthorizes funding for federal (\$500,000 for each year for 2001 through 2005) and state judicial training (\$1.5 million each year for 2001-2005) on violence against women; adds a training component regarding domestic violence and child sexual abuse in custody determinations; adds coverage of dating violence in training.

Sec. 1407. Domestic Violence Task Force - creates multiagency task force to coordinate research on domestic violence and insure no duplication in research efforts. Authorizes \$500,000 per year for 2001 through 2004

TITLE V - BATTERED IMMIGRANT WOMEN

Generally designed to improve on efforts made in VAWA 1994 to prevent immigration law from being used by an abusive citizen or lawful permanent resident spouse as a tool to prevent an abused immigrant spouse from reporting abuse or leaving the abusive relationship. This could happen because generally speaking, U.S. immigration law gives citizens and lawful permanent residents the right to petition for their spouses to be granted a permanent resident visa, which is the necessary prerequisite for immigrating to the United States. In the vast majority of cases, granting the right to seek the visa to the citizen or lawful permanent resident spouse makes sense, since the purpose of family immigration visas is to allow U.S. citizens or lawful permanent residents to live here with their spouses and children. But in the unusual case of the abusive relationship, an abusive citizen or lawful permanent resident can use control over his or her spouse's visa as a means to blackmail and control the spouse. The abusive spouse would do this by withholding a promised visa petition and then threatening to turn the abused spouse in to the immigration authorities if the abused spouse sought to leave the abuser or report the abuse.

VAWA 1994 changed this by allowing immigrants who demonstrate that they have been battered or subjected to extreme cruelty by their U.S. citizen or lawful permanent resident spouses to file their own petitions for visas without the cooperation of their abusive spouse. VAWA 1994 also allowed abused spouses placed in removal proceedings to seek "cancellation of removal," a form of discretionary relief from removal available to individuals in unlawful immigration status with strong equities, after three years rather than the seven ordinarily required. Finally, VAWA 1994 granted similar rights to minor children abused by their citizen or lawful permanent resident parent, whose immigration status, like that of the abused spouse, would otherwise be dependent on the abusive parent. VAWA 2000 addresses residual immigration law obstacles standing in the path of battered immigrant spouses and children seeking to free themselves from abusive relationships that either had not come to the attention of the drafters of VAWA 1994 or have arisen since as a result of 1996 changes to immigration law.

Sec. 1501. Short Title - Names this title the Battered Immigrant Women Protection Act of 2000.

Sec. 1502. Findings and Purposes - Lays out as the purpose of the title building on VAWA 1994's efforts to enable battered immigrant spouses and children to free themselves of abusive relationships and report abuse without fear of immigration law consequences controlled by their abusive citizen or lawful permanent resident spouse or parent.

Sec. 1503. Improved Access to Immigration Protections of the Violence Against Women Act of 1994 for Battered Immigrant Women - Allows abused spouses and children who have already demonstrated to the INS that they have been the victims of battery or extreme cruelty by their spouse or parent to file their own petition for a lawful permanent resident visa without also having to show they will suffer "extreme hardship" if forced to leave the U.S., a showing that is not required if their citizen or lawful permanent resident spouse or parent files the visa petition on their behalf. Eliminates U.S. residency as a prerequisite for a battered spouse or child of a citizen or lawful permanent resident to file for his or her own visa, since there is no such prerequisite for a citizen or permanent resident spouse to file for a visa on behalf of his or her spouse or child. Retains current law's special requirement that abused spouses and children filing their own petitions (unlike spouses and children for whom their citizen or lawful permanent resident spouse or parent petitions) demonstrate good moral character, but modifies it to give the Attorney General authority to find good moral character despite certain otherwise disqualifying acts if those acts were connected to the abuse.

Allows a victim of battery or extreme cruelty who believed himself or herself to be a citizen's or lawful permanent resident's spouse and went through a marriage ceremony to file a visa petition as a battered spouse if the marriage was not valid solely on account of the citizen's or lawful permanent resident's bigamy. Allows a battered spouse whose citizen spouse died, whose spouse lost citizenship, whose spouse lost lawful permanent residency, or from whom the battered spouse was divorced to file a visa petition as an abused spouse within two years of the death, loss of citizenship or lawful permanent residency, or divorce, provided that the loss of citizenship, status or divorce was connected to the abuse suffered by the spouse. Allows a battered spouse to naturalize after three years residency as other spouses may do, but without requiring the battered spouse to live in marital union with the abusive spouse during that period.

Allows abused children or children of abused spouses whose petitions were filed when they were minors to maintain their petitions after they attain age 21, as their citizen or lawful permanent resident parent would be entitled to do on their behalf had the original petition been filed during the child's minority, treating the petition as filed on the date of the filing of the original petition for purposes of determining its priority date.

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President Bush Signs Violence Against Women Act; Solis Attends Signing of Law in Oval Office

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Congressional Desk
January 5, 2006



Congresswoman
Hilda L. Solis

Congresswoman
Hilda L. Solis

Washington, D.C. - Today, Congresswoman Hilda L. Solis (CA-32), Democratic Chair of the Congressional Caucus for Women's Issues, attended the signing of the Violence Against Women Act (VAWA) reauthorization at the White House. As a longtime advocate for women who are victims of domestic violence, Solis' participation in the signing of VAWA is a result of her continued work on behalf of women and families.

"I am very proud of the strong, bipartisan efforts that have produced the comprehensive VAWA reauthorization bill. With increased access to services to help women who are victims of domestic violence and more education and awareness, we can ensure that women receive the help they need, no matter their race, socio-economic status or background," said Congresswoman Solis. "By enacting this legislation, we will make huge strides towards ending violence against women in all communities."

At the end of December, Congress renewed the landmark legislation, which includes provisions authored by Solis to combat domestic violence. The first Solis provision will provide grant money to establish specialized domestic violence courts, which will expedite the processing of domestic violence court cases, decrease the backlog of court cases and raise the conviction rate. The second Solis provision will provide grants to develop informational public media campaigns for underserved and immigrant communities about domestic violence in multiple languages and in a culturally-sensitive manner.

The Violence Against Women Act (VAWA) was passed as part of H.R. 3402, the Department of Justice Reauthorization Act. Solis was an original cosponsor of H.R. 3402, as a part of her continued efforts to combat domestic violence, especially in

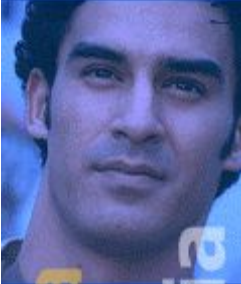
communities of color. Throughout her career in state and federal elected office, Solis has been closely involved with enacting laws to end violence against women. While in the California State Assembly and Senate, she authored a seventeen state laws aimed at combating domestic violence.



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