



Over the past 17 years, VAWA has created highly successful programs and laws that have changed the landscape for victims of domestic violence, dating violence, sexual assault and stalking. Every five years, public safety and justice professionals and experts from the field have the opportunity to recommend updates, adaptations and refinements to the Act to improve victim services and offender accountability. This time is no different. **S. 1925 was carefully crafted with new provisions and refinements based on discussions with more than 2,000 advocates and experts across the country.** Their message was clear: “We can’t afford to turn anyone away. Please give us the resources and tools to make sure that we can serve any victim who comes to our doors.” The National Task Force brought the results of these interviews to Congressional offices 2 years ago, to help inform the drafting work of the Members, and S. 1925 is the result. The **Grassley-Hutchison substitute was drafted without input or consultation** from the thousands of professionals engaged in this work every day. The substitute includes **damaging and unworkable** provisions that will harm victims, increase costs, and create unnecessary inefficiencies.

Harsh mandatory minimum sentences on a number of crimes would have a chilling effect on victim reporting and would not help to hold perpetrators accountable.

- ✓ Long mandatory minimum sentences can keep victims who were assaulted by someone they know from reporting the crime.
- ✓ Mandatory minimums for sex offenders are likely to result in pleas to non-sex offense crimes. The individuals will then not be identified as sex offenders for purposes of registration, treatment, etc.
- ✓ The American Bar Association, the Judicial Conference of the United States and every major organization focusing on criminal justice opposes mandatory minimum sentences.
- ✓ A 2008 poll found that fully 78 percent of Americans agree that courts, not Congress, should determine an individual’s sentence.
- ✓ Expanded use of prison sentences for drug crimes and longer sentences required by mandatory minimums have caused a dramatic increase in state and federal corrections costs. State corrections spending jumped from \$6 billion in 1982 to over \$50 billion in 2008.
- ✓ None of these proposals were vetted, much less approved by the field of advocates whose proposal forms the basis of S. 1925, the Leahy-Crapo VAWA reauthorization bill. These proposals are solutions in search of problems, and will only serve to exacerbate the already existing problem of prison overcrowding.

Unacceptable “Gender-neutral” language ignores, rather than addresses, issues of LGBT victims.

The inclusion of “women” recognizes the disproportionate impact that these crimes have on women. Gender-neutral language does not recognize the reality of these crimes, nor does it adequately address the need to broader services for LGBT survivors.

- ✓ A 2011 survey found that nearly 85% of service providers worked with LGBT clients who reported that they were turned away or denied services because of their sexual orientation and/or gender identity.
- ✓ LGBTQ people are underserved because of their sexual orientation and gender identity, not just their gender, and should be included in this Act explicitly and not through a “gender neutral” approach that does not remove the barriers created by homophobia.
- ✓ Gay men are not denied shelter because they are men – there are already provisions in VAWA that prevent that discrimination – but because they are gay. Lesbians are not turned away from shelter or services because they are women, but because they are lesbians. Transgender people are not turned away because of their sex assigned at birth but because of their gender presentation and expression that service providers do not understand and therefore cannot address.

Audit requirements are excessive, burdensome and costly.

- ✓ Since its enactment, VAWA has included important reporting and oversight provisions both for grantees and for the Department of Justice (“DoJ”). S. 1925, includes enhanced accountability measurements without excessive government oversight
- ✓ In separate letters addressed to Congressman Poe and Senator Leahy, DoJ has reported that “VAWA grants are being used effectively for their intended purpose,” that “grant management and grantee recordkeeping are generally sound,” and that when auditing problems arise, they are “not about waste, fraud or abuse, but rather about inadequate accounting and insufficient documentation” and are quickly resolved.
- ✓ The resources required to implement this substantial new audit requirement would be better spent on technical assistance and financial training for the hundreds of small police departments, courts, and non-profits who are OVW grantees.

Limits the U visa program, barring the use of unused visas, which discourages victims from working with law enforcement to bring perpetrators to justice.

- ✓ Victims of crime should be able to work with law enforcement to bring perpetrators to justice. Limiting the U-visa certification process will discourage victims from coming forward and cooperating with law enforcement. Yet law enforcement tells us that failing to report crimes like these only exacerbates their negative impact on the community. Considering that many who commit U-visa crimes are serial perpetrators, law enforcement wants victims to come forward regardless of the statute of limitations.
- ✓ Restrictive certification requirements discourage cooperation with law enforcement. The effect of a 120 day limit gives perpetrators tools to evade prosecution. Domestic violence research shows that victims often suffer multiple incidents of abuse before they find the courage to come forward. This is true for citizen victims as well as immigrant victims. Research on reporting also shows that this would hurt sexual assault victims the most.

Erodes important provisions for immigrant victims' safety and undermines effective anti-fraud protections.

- ✓ Creates undue barriers for vulnerable victims. The amendment's provisions requiring that an application be denied if an alleged abuser is found "not guilty" fails to recognize that not all battery or extreme cruelty is covered under state criminal laws, nor does it recognize that there are many reasons why prosecution is not undertaken or successful, including when a perpetrator flees. This is true for cases brought by citizen victims, as well.
- ✓ Endangers victims and perpetuates further abuse. Amendments allowing the alleged abuser access to the self-petition process creates a chilling effect on victims' help-seeking. Abusers who *could* have adjusted the status of their spouse and chose not to as a tool of abuse and fear will be in a position to block the victim's access to this critical remedy for battered immigrants. Informing and allowing alleged abusers to provide input in these cases puts victims at risk of retaliation. Abusers frequently deny the abuse and falsely accuse victims of fraud or abuse. It increases motives for abusers to contact ICE to try to stop their spouse from getting legal status.
- ✓ Shifting the self-petition process to local offices is duplicative and expensive. Adding an additional interview requirement is unnecessary, would be very costly and would require extensive training on domestic violence and sexual assault at USCIS offices across the country. Currently, the specialized USCIS center that adjudicates these applications is trained to weigh the evidence and ferret out fraud and can request additional evidence if necessary. Additionally, self-petition applicants have to attend an interview at their local offices to adjust their status to lawful permanent residence. The double interview requirement places an extra hurdle for victims of abuse not required for other applicants for status.
- ✓ Adding an interview process to VAWA cancellation of removal hearings to local offices is duplicative and expensive. In VAWA cancellation of removal cases, the petitioner appears at hearings with an immigration judge, so a separate interview places an unnecessary burden. Adding an interview process to VAWA cancellation hearings will slow immigration court cases down immensely, bogging down the court calendar further.

Undermines ability of tribal courts to hold violent offenders accountable.

- ✓ Indian women face rates of victimization many times higher than those faced by non-Indian women, due to a current gap in law enforcement and court jurisdiction over crimes of domestic and sexual violence occurring on tribal land.
- ✓ State courts and state law enforcement have said very clearly that they cannot take on the responsibility of addressing this horrific level of victimization. The federal government also lacks the resources to address this problem alone, as evidenced by the incredibly low federal prosecution rates in Indian Country.
- ✓ The National Council of Juvenile and Family Court Judges and the Conference of Chief Justices have adopted policies recognizing the sovereign jurisdiction of tribal courts, and are committed to ensuring that tribes receive capacity-building support, where appropriate, to protect the women who are victimized on their lands, and to hold offenders accountable.

Burdens tribal victims by forcing them to seek protective orders in federal court.

- ✓ The substitute would require tribes to seek validation of their civil protection orders in federal district courts—often hundreds of miles from the reservation—even though the current full faith and credit provisions of VAWA (specifically 18 USC 2265(e)) already give tribes civil authority to issue and enforce these types of orders without interference from federal authorities.
- ✓ Moreover, this provision appears to make it a federal crime to violate tribal protection orders. Federal prosecutors—those with the primary enforcement responsibility for crimes in Indian country—already decline to prosecute half of Indian Country crimes that are referred to them. By adding violations of tribal protection orders to the list of crimes that federal authorities can prosecute—but frequently fail to do so—the substitute offers a distraction that may ultimately exacerbate the problem, instead of proposing a real solution that will protect Native victims.