

VAWA is a cost-effective, time-tested, constitutionally sound compendium of laws that guarantees equal protection to all victims seeking help under its auspices. Victims of domestic violence, dating violence, sexual assault, and stalking look to Congress to keep this critical program going.

The Violence Against Women Act (VAWA), up for reauthorization in 2011, has changed the way our society views domestic and sexual violence. Once a “private family matter,” domestic violence is now recognized in every state and territory as a crime of violence against an intimate partner. VAWA has also encouraged states to adopt new and more effective strategies to respond to dating violence, sexual assault, and stalking. Thanks to Congress’ efforts in drafting and passing VAWA, approximately \$430 million is distributed to the states, tribes, and territories every year to fund the training and work of courts, prosecutors, police officers, and victim service providers. Each state and territory receives a proportionate share of the formula grant funding, allowing them to develop best practices and resources to address the needs of victims of domestic violence, dating violence, sexual assault, and stalking in their jurisdictions.

Starting in the 1990s, Congress began to look at the impact these crimes were having in the districts they represented. According to the Bureau of Justice Statistics’ 2005 report on family violence, women account for 84% of victims of domestic violence and 86% of victims of dating violence by a dating partner.¹ 1 in every 4 women will experience domestic violence during her lifetime.² In a National Institute of Justice-funded survey to determine prevalence of sexual assault victimization, researchers found that 1 in 6 women have been the victim of an attempted or completed rape, as compared to 1 in 33 men.³ The Bureau of Justice Statistics determined that the rate of stalking is approximately 20 victimizations per 1,000 women and 7 victimizations per 1,000 men.⁴ What Congress learned through hearings – and what continues to be true today – is that these four crimes disproportionately impact women. It was this understanding that led Congress to name this historic piece of legislation the Violence Against Women Act.

VAWA does not impose mandatory arrest policies. Rather, VAWA-funded programs encourage law enforcement to conduct complete and thorough investigations before reaching conclusions about probable cause for arrest. At the same time, state and local laws independently establish the consequences for crimes committed within their jurisdictions. VAWA supports the development of programs that hold criminals accountable for their actions. This directive should be more explicitly stated in the upcoming VAWA 2011 reauthorization.

During the reauthorization of VAWA in 2000, it became clear through further hearings and from feedback from the field that several provisions of the statute needed to be strengthened or clarified. One such change involved an increased focus on the crime of sexual assault and stalking to ensure that victims of these other two crimes would also receive help. VAWA also provided legal assistance to victims of domestic violence and sexual assault for the first time.

VAWA was once again reauthorized in 2005, allowing for further important improvements in the language of the law. Recognizing that men were also victims of these crimes, though not at the same rates or impacts as women, Congress added a clarifying clause that stated that men could not be denied services or benefits under VAWA. At the same time, Congress articulated even more clearly that four crimes should be addressed through VAWA:

¹ Bureau of Justice Statistics (June 2005). Family Violence Statistics. Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/fvs.pdf>.

² Tjaden, P. & Thoennes, N. (2000). Extent, nature and consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey. Washington, DC: National Institute of Justice and the Centers for Disease Control and Prevention.

³ Tjaden, P. & Thoennes, N. (1998). Prevalence, Incidence, and Consequences of Violence Against Women. Findings from the National Violence Against Women Survey. Washington, D.C.: U.S. Department of Justice.

⁴ Bureau of Justice Statistics. (2009). “Stalking Victimization in the United States.” Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/svus.pdf>.

domestic violence, dating violence, sexual assault, and stalking. Although the title remained the same for historical reasons, the gender-neutral language of the various programs in VAWA now reads “victims of domestic violence, dating violence, sexual assault, and stalking.” These changes recognized, for example, that men in prison were frequently victims of sexual assault, just as gay men could be victims of domestic or dating violence.

VAWA’s definition of domestic violence, dating violence, sexual assault and stalking require a standard of conduct that would rise to the level of a felony under most state laws. VAWA defines domestic violence, dating violence, sexual assault, and stalking in two places in the U.S. Code. First, VAWA defines the federal crimes of domestic violence, dating violence, sexual assault, and stalking in Title 18. Chapter 109A of Title 18 defines sexual abuse, and Chapter 110 of Title 18 defines domestic violence and stalking crimes. For example, to be charged with the federal crime of domestic violence, the offender has to be proven to have the intent to “kill, injure, harass, or intimidate” with the result of inflicting lethal or life-threatening injuries, permanent disfigurement, or serious bodily injury. Many of the states and territories have adopted the same or a similar definition of domestic violence as a crime.

VAWA also has a definition of each of the four crimes for the purpose of making clear which victims may use VAWA-funded services. These definitions, like the definitions of the federal crimes, refer to “felony or misdemeanor crimes of violence.” These stringent definitions are also reflected in most states’ laws, though some states have added emotional injury to their protection order statutes, in order to prevent emotionally abusive behavior from escalating into serious bodily injury or lethality.

The language of VAWA makes it abundantly clear that constitutional protections *cannot* be abridged in the process of responding to domestic violence, dating violence, sexual assault, or stalking. For example, in 18 U.S.C. 2265, VAWA requires states to give all protection orders Full Faith and Credit, as required by the Constitution. Moreover, VAWA mandates that “reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person’s right to due process.” As in any other criminal process, states are required to provide the accused with legal counsel, the right to confront their accusers, and the right to avoid self-incrimination.

VAWA does not require prosecutors to use no-drop prosecution methods. VAWA funds the placement of victim assistants in prosecutors’ office to ensure that procedures are followed to keep victims safe. Additionally, since the U.S. Supreme Court clarified the scope of the Constitution’s Confrontation Clause in *Crawford v. Washington*, VAWA has helped fund trainings to ensure that prosecutors properly use evidence in domestic violence, dating violence, sexual assault and stalking cases so that a defendant’s Constitutional right to cross-examine the victim is not impaired.

VAWA has also saved the government significant money, with more than \$12.6 billion saved in the first 6 years alone.⁵ The U.S. Department of Justice funded a study in Kentucky that found that persons who received protection orders experienced a decrease in violence, resulting in a savings of \$85 million in averted costs in just one year in that state.⁶

Yet even with VAWA’s sterling record of cost-savings, the field has recognized the need of the federal government to streamline programs. The field’s proposal for the 2011 reauthorization keeps what works and recommends consolidations where appropriate in order to make the Violence Against Women Act the strongest, leanest, most cost-effective means of ending domestic violence, dating violence, sexual assault, and stalking.

⁵ Kathryn Andersen Clark et al., A Cost-Benefit Analysis of the Violence Against Women Act of 1994, 8 *Violence Against Women* 417 (2002).

⁶ *The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, & Costs.* (2009). U.S. Department of Justice, National Institute of Justice.