

A Vote for H.R. 4970 is a Vote Against VAWA

From: The Committee on the Judiciary - Minority Staff

Bill: H.R. 4970

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Minor Changes Made by the Manager's Amendment Do Not Fix this Attack on VAWA

Dear Democratic Colleague:

Today, the House will vote on H.R. 4970, a bill that ostensibly reauthorizes the Violence Against Women Act. The manager's amendment to the bill offered at the Rules Committee is merely a fig leaf that fails to overcome the simple truth that H.R. 4970 rolls back existing law and fails to protect some of the most vulnerable victims of violence.

Even with the changes made by the manager's amendment, H.R. 4970 still shifts power into the hands of abusers, delays or denies protection to battered spouses and victims of heinous crimes such as rape and sexual assault, prevents law enforcement from gaining the cooperation of many immigrant victims of serious crimes, and leaves more dangerous criminals on the streets to strike again. The bill also protects only those victims its sponsors agree with and does little or nothing to ensure Native women and members of the LGBT community are protected from violence.

That is why the bill is opposed by many hundreds of organizations, including all leading domestic violence organizations and frontline service providers in the country, as well as national women's groups, faith leaders and faith-based organizations, law enforcement personnel, immigration groups, tribal advocates, and LGBT groups.

Below is a brief description of the continuing problems with the House Republican bill. For further information on the overwhelming opposition to H.R. 4970, please visit the Minority Judiciary Committee website: <http://democrats.judiciary.house.gov/issue/materials-opposing-republican-violence-against-women-act-hr-4970>

Or contact House Judiciary Democratic Staff, Ron LeGrand (ron.legrand@mail.house.gov) and Jenny Perrino (jenny.perrino@mail.house.gov), at 225-6906.

The manager's amendment to H.R. 4970 is worse than current law because it still:

- **Rolls back protections in the VAWA self-petition process and allows the abuser to manipulate the process.** Under the manager's amendment, the abuser can no longer be directly informed of the victim's petition. However, the bill will still empower the abuser to control and manipulate the process by allowing uncorroborated abuser-provided evidence to be used against the victim to deny protection. In addition, the bill still creates a number of unnecessary requirements that raise new procedural barriers that will significantly delay or deny protection to vulnerable immigrant victims.

· **Rolls back “U” visa provisions, denying protection to immigrant victims of serious crime and stripping police and prosecutors of a critical law enforcement tool.** It erects new barriers in the U visa process, substituting Congress’s judgment about how crime victims can assist law enforcement for that of police officers and prosecutors. It also eliminates the ability of most U visa holders to obtain green cards, forcing the immigrant victim to risk deportation if she chooses to report a crime and cooperate with law enforcement.

· **Fails to include provisions from the bipartisan Senate-passed bill to protect Native Women’s lives and includes dangerous new language that may lead to further abuse.** It authorizes tribal governments to seek protection orders on behalf of victims with or without their permission, violating the core principle that such victims must have autonomy and control over requests for help. Victims of domestic violence know best when and how to seek safety. Instead of taking serious steps to address the epidemic of domestic violence on tribal lands by empowering tribal police and courts to hold all perpetrators accountable, it creates an unnecessary and unsafe process through which Federal courts may issue orders of protection.

· **Fails to include provisions from the bipartisan Senate-passed bill to protect LGBT victims from discrimination and weakens nondiscrimination employment protections.** It fails to protect LGBT persons seeking services under the Violence Against Women Act from discrimination. The manager’s amendment also makes changes allowing discrimination in employment by programs receiving VAWA funding — any grantee, for any reason would be able to discriminate on the basis of “actual or perceived race, color, religion, national origin, sex or disability.” The prohibition against discrimination has been limited only to apply to the denial of assistance or exclusion from receiving services from a grantee.

Below is a more detailed description of the continuing problems with the House Republican bill.

The manager’s amendment rolls back protections in the VAWA self-petition process, empowering abusers and harming battered immigrant spouses.

· VAWA protects battered immigrant women by allowing them to “self-petition” for permanent status if they are the battered spouse of a US citizen or permanent resident. These women are already eligible for permanent residency through their spouses, but abusive spouses intentionally refuse to file necessary papers with DHS.

· The manager’s amendment is worse than current law because it still:

- tips the scales in favor of abusers by eliminating the requirement that abuser-provided evidence be investigated and corroborated before it can be used to deny the victim protection;
- delays protection for battered victims by staying adjudications during pending investigations or prosecutions;
- creates a negative inference against the victim if law enforcement does not open a formal investigation or prosecutors fail to prosecute the perpetrator; and
- increases bureaucracy by creating duplicative, unnecessary requirements that would effectively delay or deny protection to battered victims.

The manager’s amendment rolls back “U” visa provisions, denying protection to immigrant victims of serious crime and stripping police and prosecutors of a critical law enforcement tool.

· According to the VAWA reauthorization bill of 2000, the U visa was created to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault,

trafficking of aliens, and other crimes . . . committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.” Current law caps the number of U visas to 10,000 per year.

- The manager’s amendment is worse than current law because it still:
 - erects new barriers in the U visa process, substituting Congress’s judgment about how crime victims can assist law enforcement for that of police officers and prosecutors; and
 - eliminates the ability of most U visa holders to obtain green cards.
- The manager’s amendment also ignores the request of law enforcement to make more U visas available to help fight crime.
- **Republican “fraud concerns” are still just an excuse to roll back protections.**
 - The manager’s amendment denies protection to victims and makes current law worse based on alleged concerns about fraud.
 - But there is no credible evidence of fraud in the VAWA self-petition program. There is no government or credible third-party report of fraud, and no hearings were held on the issue. DHS officials say the VAWA self-petition is among the hardest of the immigration programs to defraud because of the already high evidentiary requirements.
 - And there is no evidence whatsoever of fraud in the U visa program. There are no reports indicating fraud and there have been no hearings on the issue. The U visa program is almost impossible to defraud because of the need for a certification from law enforcement. The need for a certification is the best deterrent there is. For Rs to complain of fraud in the U visa program, they must believe law enforcement is either complicit in the fraud or is incompetent to determine when a victim is being helpful.

The manager’s amendment fails to include provisions from the bipartisan Senate-passed bill to protect Native Women’s lives and includes dangerous new language that may lead to further abuse.

The manager’s amendment reverses VAWA’s historic victim-centered approach and endangers Native women’s lives.

- The manager’s amendment allows tribal governments to seek protection orders from the federal government regardless of the wishes of victims. This violates one of the foundational principles of VAWA, which has always encouraged and supported victim-centered responses that help restore autonomy and control to battered women. VAWA recognizes that domestic violence victims are in the best position to know when it is safe for them to leave and what steps should be taken, including when to seek a protection order.
- The manager’s amendment also requires the tribe to disclose the address of the victim, which could place her in jeopardy if she is in hiding.

The manager’s amendment creates an unnecessary and unsafe new process for Federal courts to issue reservation-based orders of protection.

- The manager’s amendment creates new authority for Federal courts to issue orders of protection, but such courts have little expertise or experience in the realm of family law. Domestic disputes are typically within the purview of tribal and state governments, the governments closest to the community impacted. As such, it is impractical to have federal courts delve into these types of cases when they arise on tribal lands rather than having tribal courts, the best-equipped and most appropriate

authorities to issue domestic violence orders of protection on reservation, handle them. A solution that requires tribal victims to travel to far-away federal courts to seek a protection order that may or may not be enforced by federal authorities is no solution at all.

The manager's amendment still does nothing to address the epidemic of domestic violence on tribal lands.

- Neither the manager's amendment, nor the underlying bill, empowers tribal police and courts to address instances of domestic violence on tribal land. Instead, tribal residents would be forced to rely on federal courts, often located hundreds of miles from the reservation and scene of the crime, to protect victims. These protections were included in the bipartisan Senate-passed bill.
- The manager's amendment would place the primary burden on federal law enforcement (or state law enforcement in PL280 states) to protect Native women, even though these federal/state authorities often have no stake in or ties to the relevant tribal communities.

The manager's amendment fails to include provisions from the bipartisan Senate-passed bill to protect LGBT victims from discrimination and weakens nondiscrimination employment protections.

The manager's amendment would allow discrimination in employment by any program receiving VAWA funding.

- This right to discriminate would allow any grantee, for any reason to discriminate on the basis of "actual or perceived race, color, religion, national origin, sex or disability." The prohibition against discrimination has been limited only to apply to the denial of assistance or exclusion from receiving services from a grantee.

Like the reported bill, the manager's amendment provides no protection against discrimination against LGBT persons seeking services under VAWA.

- Any grantee may refuse to provide services to victims of violence simply because the person is, or is perceived as, Lesbian, Gay, Bisexual, or Transgender.
- The right to discriminate is not limited to those with religious objections. Any organization may discriminate for any reason. No current federal law provides such a broad licenses to discriminate in employment.

No federal law now allows a recipient of federal funds to discriminate on the basis of actual or perceived race, color, national origin, sex, or disability.

- The right to discriminate in employment on the basis of religion allowed under §702 of the Civil Rights Act of 1964 is limited to a "religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities." Section 702 applies to employment generally, and does not address federally funded activities.

We strongly encourage all colleagues to vote NO on H.R. 4970 today.

Sincerely,

s/

John Conyers, Jr.

Member of Congress

s/

Zoe Lofgren

Member of Congress

s/

Gwen Moore

Member of Congress
