

April 3, 2019

**Vote YES on H.R. 1585, the Violence Against Women
Reauthorization Act of 2019**

Dear Representative:

On behalf of the American Civil Liberties Union (ACLU), we urge you to vote YES when H.R. 1585, the Violence Against Women Reauthorization Act of 2019, comes to the House floor this week and to oppose any amendments or motion to recommit that weaken or undermine the bill's protections. The ACLU will score the final vote.



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With more than three million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C. to protect the principles of freedom and equality set forth in the Constitution and in our nation's civil rights laws. For decades, the ACLU has been a leader in the battles to ensure women's full equality. We take an active role at the local, state, and national levels to advance the rights of survivors of domestic violence, sexual assault, and stalking by engaging in litigation, legislative and administrative advocacy, and public education. As such, we strongly believe that reauthorization of the Violence Against Women Act (VAWA) should be a top priority for this Congress.

Congress has long recognized the destructive impact of domestic and sexual violence on the lives of survivors and their families. Through passage of the VAWA of 1994 and its reauthorization in 2000, 2005, and 2013, Congress has taken important steps to provide legal remedies and services for survivors of intimate partner abuse, sexual assault, and stalking. These efforts are vital to ensuring that women and their children can lead lives free of abuse.

The legislation currently before the House contains many important and laudable provisions that will greatly improve the nation's response to domestic violence, dating violence, sexual assault, and stalking, including the following protections and changes:

- **Housing Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking:** Survivors and their children too often face homelessness as a direct result of the violence they experience. H.R. 1585 adopts much-needed housing rights and protections. First, the bill protects victims from termination solely based on any criminal activity of the perpetrator (including drug-related criminal activity), and requires a housing provider to consider a totality of the circumstances, provide the tenant with a written summary of its review, and give the tenant an opportunity to dispute the housing provider’s findings before terminating assistance due to a tenant’s alleged criminal activity. It also strengthens and clarifies the emergency transfer process set forth in the 2013 reauthorization. This bill would require that housing providers create policies that offer survivors expeditious transfers to other housing operated by those providers as well as tenant protection vouchers to move into other secure housing, where available.

Furthermore, this legislation addresses the need for consistent implementation, compliance, and accountability with respect to its housing protections. Notably, the bill establishes the position of a VAWA Director, who will coordinate VAWA’s implementation across federal agencies, provide technical assistance to relevant actors, and develop a formal complaint process to ensure compliance. It also protects residents from retaliation from housing providers when they exercise their VAWA housing rights.

Finally, the bill ensures that survivors of domestic violence and victims of other crimes have the right to access police assistance and emergency response services on behalf of themselves or others without penalty. As such, the bill protects survivors from eviction or the threat of eviction due to unjust “nuisance” or “crime-free” ordinances adopted by municipalities that punish residents for seeking police or emergency assistance. The ACLU has represented several domestic violence victims who faced eviction or were evicted from their homes under local ordinances because they called 911 after violent attacks.¹ This federal legislation is crucial to protecting victims of crime and others who need emergency assistance from the terrible dilemma of choosing between accessing aid and keeping their homes and shielding landlords from unfair liability because of municipal enforcement.

- **Discouraging Compelling Testimony from Victims:** H.R. 1585 requires government recipients of VAWA funding to certify that their laws, policies, and practices will discourage the compelling of victim-witness testimony during the investigation, prosecution, trial, or sentencing of a crime related to domestic violence, sexual assault, dating violence, or stalking. This provision promotes victim autonomy and public safety by ensuring that prosecutors and other law

¹ Erik Eckholm, *Victims’ Dilemma: 911 Calls Can Bring Eviction*, N.Y. Times (Aug. 16, 2013), <https://www.nytimes.com/2013/08/17/us/victims-dilemma-911-calls-can-bring-eviction.html>.

enforcement officials listen to, and prioritize, the needs and concerns of victims of violent crimes. The ACLU has worked directly with survivors who have faced the threat of jail time if they do not testify, even when testimony is against their best interests.² Compelling testimony in these cases only undermines victims' confidence and trust in our legal system.

- **Tribal Jurisdiction:** This VAWA reauthorization expands tribal jurisdiction to include crimes of dating violence, obstruction of justice, sexual violence, sex trafficking, stalking, and assault of a law enforcement or corrections officer. Permitting tribes to exercise jurisdiction ensures that non-Native perpetrators of these offenses are held accountable. Additionally, the bill provides for an annual reporting requirement of statistics on murdered and missing Indian women in the United States.
- **Prohibition on Engaging in Sexual Acts While Acting Under Color of Law:** H.R. 1585 prohibits any federal law enforcement officer, acting under color of law, from knowingly engaging in a sexual act with an individual in custody. The bill further provides that it is not a defense that the individual consented to the sexual act, recognizing the inherent power imbalance when a person is in the custody of an officer. Accordingly, this amendment protects against sexual misconduct by federal law enforcement officers and furthers the federal government's interest in guaranteeing policing free of gender bias and harassment.³
- **Implementation of Non-discrimination Requirements:** H.R. 1585 authorizes the Department of Justice to issue grants related to the implementation of VAWA's non-discrimination requirements. This provision is a step forward in realizing the principles of equality and fairness enshrined by Congress in VAWA 2013.
- **Funding for Alternative Justice Responses:** The bill authorizes the Department of Justice to fund the development and implementation of alternative justice measures, which are designed to provide victim-centered relief and resolution to those harmed while seeking accountability from the accused. Development of research-based alternative responses is essential for providing survivors access to justice, particularly for those who seek options outside the traditional criminal legal system.
- **Women in Federal Custody:** H.R.1585 indicates that the Federal Bureau of Prisons (BOP) may not place pregnant and postpartum women in segregated

² *Singleton, et al. v. Cannizzaro, et al.*, Case No. 17-10721, (E.D. La. filed Oct. 17, 2017).

³ U.S. Dep't of Justice, *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence* (Dec. 15, 2015), <https://www.justice.gov/opa/file/799366/download>.

housing, also known as solitary confinement. Women, especially pregnant women,⁴ may be disproportionately subjected to solitary confinement which can cause extreme psychological harm. Even without the heightened risks created by solitary confinement, pregnancy can carry greater risks of stress and depression.⁵ Placing pregnant and postpartum women in solitary confinement only amplifies these risk factors. Stress may result in grave harms to the woman and the pregnancy, including preterm labor, low birth weight and, later, mental health problems for the child.⁶

While H.R. 1585 takes an important step forward by recognizing the harm solitary confinement has on pregnant and postpartum women, the definition of postpartum recovery in the bill is inconsistent with the definition in current law that was recently enacted in the FIRST STEP Act.⁷ H.R.1585 defines postpartum recovery as the 8 week period after giving birth and current law defines it as 12 weeks or longer after delivery. Although the bill's definition applies to restrictions on the use of solitary confinement and the current law applies to the use of restraints or shackling of pregnant and postpartum women, these definitions should be consistent in order to reduce confusion by BOP officials and to allow women the optimal amount of time to recover from child birth while in prison. The prohibition on shackling and placing women in solitary confinement during and after pregnancy should be 12 weeks as current law requires.

- **Unemployment Insurance:** H.R. 1585 prohibits the denial of compensation under state law solely on the basis of an individual's voluntary separation from work when that separation resulted from that individual being a victim of sexual or other harassment, or a survivor of domestic violence, sexual assault, or stalking. This language preserves survivors' eligibility to receive unemployment insurance when they are forced to leave their positions due to harassment or violence.

⁴ See, e.g., *Reassessing Solitary Confinement: Hearing Before the Senate Judiciary Committee's Subcommittee on the Constitution, Civil Rights and Human Rights*, 2011-12 LEG. SESSION 4 (N.Y. 2012) (statement of Correctional Association of New York) available at <http://www.correctionalassociation.org/wp-content/uploads/2012/10/testimony-solitary-confinement-june-2012.pdf> (describing challenges pregnant women in isolation can face in trying to access medical care); Complaint at 9, *Seitz v. Allegheny Cty.*, No. 16-1879 (W.D. Pa. Dec. 19, 2016), available at https://www.aclupa.org/download_file/view_inline/2943/1055.

⁵ See generally Christine Dunkel Schetter & Lynlee Tanner, *Anxiety, depression, and stress in pregnancy: implications for mothers, children, research, and practice*, 25 CURR OPIN PSYCHIATRY 141, 141-48 (2012), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4447112/pdf/nihms-693331.pdf> (describing high rates of depression and anxiety among pregnant people, especially the poor and people of color, and associated negative birth outcomes).

⁶ *Id.*

⁷ The First Step Act of 2018 PL-115-391(2018).

- **TANF Training and Certification:** H.R. 1585 provides that government family assistance programs must provide applicants with information about the aid available to survivors of sexual and other harassment, domestic violence, sexual assault, and stalking, as well as requires adequate training of staff and case workers on the fundamental basics of, and best practices related to, domestic and sexual violence and harassment. This amendment is vital to ensuring access to resources and trauma-informed services for low-income survivors.

We urge members of the House to support this important legislation. If you have any questions, please contact Vania Leveille at vleveille@aclu.org, Sandra Park at spark@aclu.org, or Linda Morris at lindam@aclu.org.

Sincerely,



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