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Legislative Bulletin……February 27, 2013

Contents:

S.47 — Violence Against Women Reauthorization Act of 2013
(Leahy, D-VT)

Order of Business: The bill is scheduled to be considered on Thursday, February 28, 2013, under a structured rule (H. Res. 83) that prohibits any further amendments. The Rule provides one hour of general debate equally divided and controlled by the Majority Leader and Minority Leader or their designees. It also makes in order the Rules Committee Print 113-2 as an Amendment in the Nature of the Substitute separately debatable for 20 minutes equally divided and controlled by a proponent and an opponent. It provides one motion to commit with or without instructions. If the Amendment in the Nature of the Substitute fails, then the House will consider the original, Senate-passed S. 47. Differences in the Senate bill and the House substitute are on page 9 of this document.

Summary: The Amendment in the Nature of the Substitute (House Substitute) to S. 47 reauthorizes approximately 25 Violence Against Women Act (VAWA, P.L. 103-322) federal grant programs at around $670 million a year from FY2014-FY2018. Congress enacted this 1994 law during the Clinton era, and it has been reauthorized with strong bipartisan support twice: once in 2000[1] and the second time in 2005[2]. The programs authorized under VAWA expired on September 30, 2011, yet they have continued to receive funding. A recent Congressional Research Service (CRS) report shows the five year (FY2008-FY2012) history of authorization and funding levels enacted for VAWA programs beginning on page 25.

VAWA established the Violence Against Women Office (OVW) in the Department of Justice (DOJ) and created many new grant funding programs to states, localities, Indian Tribes, non-profit victims entities, and Universities charged with changing attitudes and promoting awareness of domestic violence, improving services for victims, and revising how the criminal justice system responds to domestic violence, dating violence, stalking, sexual assault, and trafficking of persons. These grant programs are administered primarily through the OVW as well as the Centers for Disease Control (CDC) in the Department of Health and Human Services (HHS).

[1] The Victims of Trafficking and Violence Protection Act of 2000 (H.R. 3244) passed the House by a 371-1 vote and the Senate by a 95-0 vote.
[2] The VAWA and Dep't of Justice Reauthorization of 2005 passed the House by a vote of 415-4 and the Senate by Unanimous Consent.

Last Congress, the Senate passed a similar VAWA reauthorization to S. 47 (S. 1925) on April 26, 2012, by a vote of 68-31. The House did the same by passing its version (H.R. 4970) on May 16, 2012 by a vote of 222-205. A compromise was not reached before the 112th Congress expired.

The Senate passed S. 47 on February 12, 2013, by a 78-22 vote.

A summary of the major provisions of the House Substitute to S. 47 is below. Changes from last year's H.R. 4970 are highlighted in **red**.

- Provides technical corrections and universal definitions for all VAWA programs including Alaska native village, child, culturally specific services, culturally specific, homeless, personally identifying information or personal information, population specific organization, population specific services, rape crisis center, sex trafficking, sexual assault, tribal coalition, underserved populations, unit of local government, victim services, victim service provider, and youth.

- Sets out the following requirements that will apply to all VAWA grant programs:

  - Requires providers of legal assistance to be sufficiently trained or experienced in providing such assistance to victims as required under current law (42 U.S.C. 379gg-6(d));
  - Restricts disclosure of victims' personally identifying information and confidential information;
  - Permits VAWA grantees the ability to advocate for state, local, or tribal legislation or model codes "designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking; and
  - Updates nondiscrimination provisions pertaining to any potential denial of benefits based on actual or perceived race, color, religion, national origin, sex or disability by any program or activity funded in whole or part with funds made available under VAWA. **It provides that the Attorney General is permitted to make rules to ensure that grantees or subgrantees providing services with VAWA funds do not impermissibly discriminate in the provision of such services.**

- ***New*** taxpayer accountability measures include:
  - Requiring the DOJ and HHS Inspectors General (IGs) to conduct annual audits **~~of~~ at least 10%** of all VAWA grant recipients. Grantees are prohibited from receiving VAWA grant funding for two fiscal years if they are found to have an unresolved audit finding[3] in any one year. Any erroneous funds provided to a grantee during a prohibited period shall be deposited into the Treasury's General Fund.
  - Requires VAWA grant applicants to include a list of each federal grant the applicant has applied for during the one-year period before the VAWA grant application as well as a list of all federal grants received by the applicant during the preceding five year period.

[3] Unresolved audit finding is defined as grant funding used for an unauthorized expenditure or unallowable cost that is not closed or resolved within 12 months from the date of an initial notification of the DOJ or HHS Inspector General of the finding, statement, or recommendation (bill text page 24).

- Requires the Attorney General (AG) to improve coordination of the administration of grants to reduce grant duplication and increase efficiency. The AG must submit a report back to certain Congressional committees within six months of enactment of the bill on the AG's progress.
- Prohibits VAWA funds to lobby the DOJ, Congress, or state or local governments *regarding the award of grant funding*—grantee violators are prohibited from receiving future VAWA grants for five years;
- Prohibits grant awards to nonprofit organizations that hold money offshore for the purposes of avoiding federal taxes;
- Limits funding for salaries and administrative expenses at the OVW to 5% of the amounts authorized to be appropriated;
- Prohibits grant funds to host or support any conference expenditure **over $20,000** unless prior written approval by the Deputy Attorney General, appropriate Assistant Attorney General, or the Deputy Secretary of Health and Human Services is provided. An annual report on all conference expenditures approved or denied is required to the appropriate House and Senate Committees of jurisdiction.

➢ Reauthorizes the STOP grant program (Services-Training-Officers-Prosecutors) at $222 million for each of fiscal years 2014 through 2018 ($225 million for FY2011). According to the Judiciary Committee, the STOP grant is the primary VAWA grant program to state and local governments to address domestic violence, sexual assault, dating violence, and stalking crimes. All 50 states, U.S. Territories, and the District of Columbia received grants according to a statutory formula, which can then be subgranted to state agencies, state and local courts, local governments, tribal governments, and nonprofit victim service providers. This reauthorization places more emphasis on training and sexual violence crime enforcement, adds stalking as an offense for grant purposes, promotes rape kit reduction backlogs, and includes a 20% set-aside for sexual assault programs. It also reforms the STOP grant application process by requiring states to develop a comprehensive implementation plan showing how VAWA grant funds would be spent.

➢ Reauthorizes at $73 million ($75 million for FY2011) grants for FY2014-FY2018 to encourage the arrest of abusers who commit acts of violence or violate protection orders. It increases emphasis on sexual assault offenses by promoting implementation of related programs to reduce rape kit backlogs and setting aside 25% of available amounts for sexual assault offenses. Also, it revises the current law requirement that state and local government grant recipients test sex offenders for HIV at the request of victims within 48 hours of information or indictment (or else lose 5% of their grant funding) to require this test to be performed within 48% of the offender being in custody or served with the information or indictment. Grantees must certify that victims are not charged for associated costs with the modification, enforcement, or dismissal of a protection order.

➢ Reauthorizes at $57 million ($65 million for FY2011) the Legal Assistance for Victims program for FY2014-FY2018. This program permits VAWA grantees to recruit, train, and mentor pro bono attorneys and law students in providing legal services to adult and youth victims of domestic violence, dating violence, stalking, and sexual assault.

➢ **Consolidates** two judge and court training grant programs created in the 2005 VAWA reauthorization into **one** program and reauthorizes the one program at $22 million ($25

million for **both** programs in FY2011) for FY2014-FY2018. The reauthorized program trains judges and court personnel on the intersection between domestic violence and family court proceedings while promoting safe supervised visitation for families in cases involving domestic violence and sexual assault.

- Reauthorizes at $12 million ($12 million in FY2011) the Court-Appointed Special Advocates for Victims of Child Abuse Program for FY2014-FY2018. This program assists child victims of abuse or neglect. The reauthorization requires a **new** annual reporting requirement about outcome performance measures to determine the effectiveness of the programs of the organization meeting the needs of children in the child welfare system.

- **Eliminates** the $2 million Outreach to Underserved Populations grant program, and **replaces** it with a **new** program offering services to victims in underserved communities from FY2014-2018 at the FY2011 $2 million funding level along with a 2% increase from funds appropriated from the STOP and Arrest programs described above.

- Clarifies that organizations which provide culturally specific programming—but not linguistically specific programming—are eligible for the Culturally-Specific Services grant which draws funding from other appropriated programs.

- Requires that at least 75% of the VAWA grants awarded are spent on analyzing untested DNA evidence from crime scenes or enhancing the capacity of labs to meet this threshold. According to reports, this provision will amount to at least $75 million for the DOJ to use for rape kit testing programs on actual DNA tests.

- Reauthorizes at $5 million (same level as FY2011) a grant program to assist probation and parole officers (and other personnel who work with released sex offenders) for FY2014-FY2018.

- Reauthorizes at $2.3 million (same level as FY2011) a grant program that provides judicial and legal professionals with technical training to address challenges present at juvenile and family courts for FY2014-FY2018.

- Reauthorizes at $40 million ($50 million in FY2011) the Sexual Assault Services Program for FY2014-FY2018. This program funds grants for assistance to sexual assault victims. It provides a new funding formula requiring each state, territory, and the District of Columbia to receive a minimum allocation of .75% of appropriated funds (reduced from the current law 1.5% allocation).

- Reauthorizes at $50 million ($55 million in FY2011) the Rural Grant Program for FY2014-FY2018. This funding seeks to enhance the safety of victims of domestic violence, dating violence, sexual assault, and stalking by supporting projects uniquely designed to address and prevent these crimes in rural jurisdictions. This provision also provides for legal assistance, other victim services, and programs to reduce rape kit backlogs.

- Reauthorizes at $9 million ($10 million for FY2011) the Training, and Services to End Violence Against and Abuse of Women with Disability Grant Program for FY2014-FY2018. The Judiciary Committee explains this grant program addresses the gaps in abuse suffered by domestic violence, dating violence, sexual assault, and stalking victims

with disabilities. The provision also now requires the use of evidence-based indicators to assess the risk of domestic and dating violence homicide.

- **Eliminates** the $10 million Elder abuse grant program, and **replaces** it with a **new** grant program authorized at $9 million for FY2014-2018 to train law enforcement and prosecutors in recognizing and responding to elder abuse and provide services for victims of elder abuse. This provision requires the AG to consult with the HHS Secretary to ensure that this new grant program is not duplicative of existing HHS grant programs.

- Reauthorizes at $50 million ($80 million in FY2011) for FY2014-2018 the Rape Prevention Education Grant administered through the CDC that supports activities of rape crisis centers, sexual assault coalitions, and other nonprofit organizations to increase efforts on how to prevent sexual assaults. Appropriated funds will be allotted to each state based on population. If the appropriated amount exceeds $48 million in any fiscal year, each state, territory, and the District of Columbia will receive at least $150,000. Any remaining funds will be allotted to each state and territory and the District of Columbia based on population.

- **Consolidates** eight existing grants to provide counseling, mentoring, and legal assistance to youth victims as well as assistance to middle and high school personnel to help youth victims. This provision requires the grant funds to be used to provide evidence-based programs and training. Funding is authorized at $15 million ($30 million combined in FY2011 for all eight existing grant programs) for FY2014-FY2018. **Any educational programming, training, or public awareness communications funded under this section are required to be evidence-based.**

- Reauthorizes at $12 million ($15 million in FY2011) Grants to Combat Violent Crimes on Campuses for FY2014-FY2018. This provision includes a new requirement for community-based grantees to implement a coordinated community response both internal and external to the campus; provide prevention education for all incoming students; provide training on domestic violence, dating violence, sexual assault and stalking for campus law enforcement; and provide training on such crimes to members of the campus judicial board.

- ~~**Creates a new National Center for Campus Public Safety within the Office of Community Oriented Policing Services at DOJ. The new center shall provide training for campus public safety agencies of institutions of higher education and their collaborative partners (including campus mental health agencies).**~~

- **Requires the Secretary of the Department of Education to provide annual guidance and technical assistance to colleges and universities on current-law campus safety requirements including reporting crime statistics and prevention programs for domestic violence, dating violence, and stalking. It also requires the Government Accountability Office (GAO) to conduct study of campus safety measures, which must be carried out administratively by the Departments of Education, Justice, and Health and Human Services.**

- Reauthorizes at $1 million ($2 million in FY2011) funding for CDC grants for FY2014-FY2018 to academic institutions and organizations for research on best practices for reducing and preventing domestic violence, dating violence, sexual assault, and stalking.

- **Consolidates** four programs into one grant aimed at raising awareness and changing attitudes about teen dating violence; preventing, reducing, and responding to children's exposure to violence at home; and engaging men serve as role models in preventing domestic violence, dating violence, sexual assault, and stalking. This program is authorized at $15 million ($27 million combined in FY2011 for all four programs) for FY2014-FY2018 with at least 10% of this funding available to grants to Indian tribes or tribal organizations.

- **Consolidates** three existing VAWA programs relating to the health care system's response to domestic violence, dating violence, sexual assault, and stalking into one grant program for developing interdisciplinary training for health professionals and education programs for health students. This program is authorized at $10 million ($13 million combined in FY2011 for all three programs) for FY2014-FY2018.

- **Extends** current VAWA housing protections to nine federal programs that are not currently covered. These prevent grant applicants from being evicted or denied admission to certain housing programs because they were victims of domestic violence, dating violence, sexual assault, or stalking.

- Reauthorizes at $35 million ($40 million in FY2011) the Transitional Housing Assistance Program for FY2014-FY2018.

- Reauthorizes two separate VAWA housing programs each at $4 million ($10 million combined in FY2011) for FY2014-FY2018 that addresses homeless victims as well as equal access to housing.

- Reauthorizes at $1 million (same level in FY2011) from FY2014-2018 for the National Resource Center on Workplace Responses. This center provides employers with information and assistance to aid in responses to domestic and sexual violence.

- Enacts the following **immigration-related reforms**:

  - ~~**Permits immigration judges to consider any credible evidence upon application by a battered illegal alien for "cancellation of removal" to become a permanent resident. Battered immigrants will be required to be interviewed by immigration officials, and federal investigators will be permitted to speak with accused spouses about the allegations. According to the Judiciary Committee, illegal alien spouses or alien children of U.S. citizens or permanent residents can "self-petition" for permanent residence status on their own if they have been battered or subject to extreme cruelty. The bill provides that these self-petitions will be adjudicated by four U.S. Citizenship and Immigration Services (USCIS) offices located in California, Nebraska, Texas, and Vermont with in-person interviews to the self-petitioning aliens (as well as the accused if consent is obtained). Clear and convincing evidence of abuse is required for a local USCIS office to approve in writing a self-petition. Material misrepresentation by the self-petitioner is grounds for deportation in an expedited basis (and not eligible for any delay or exemption from removal);**~~
  - Requires an illegal immigrant applying for a U visa to certify under oath that he/she has actually provided law enforcement with information that will assist in identifying the responsible criminals. The Judiciary Committee explains that U

visas are temporary visas available to illegal immigrants who are victims of certain specified criminal activity in the U.S. The victims must be "helpful or is being helpful" in the investigation or prosecution;

- Provides that a U.S. citizen's petition for a temporary fiancé (K-1) or spouse visa (K-2) must include information on convictions for ***attempts*** to commit crimes or any permanent protection or restraining orders issue against the U.S. citizen (in addition to any convictions of crimes);
- Requires the international marriage brokers to produce upon request from the DOJ the birth certificate or other proof of age document for each foreign national client. Federal law prohibits international marriage brokers from providing anyone with personal information of any person under the age of 18. **Also, it requires the Attorney General to report to the House and Senate Judiciary Committees on the number of prosecutions against international marriage brokers who have supplied another with the personal information, photographs, or general information about the background or interests of any person under the age of 18 since 2005**;
- Requires the GAO to prepare reports for Congress on the approval process for U visas and self-petitions for permanent residence filed by battered illegal aliens as well as the effectiveness of the reforms made by this bill regarding U visas;
- ~~**Rescinds the Department of Homeland Security's (DHS) ability to grant U visa recipients permanent resident status if the recipient has had U visas for three years and their continued presence in the US would be justified on humanitarian grounds, to ensure family unity, or was in the public interest;**~~
- Requires DHS to report to Congress annually on the U visa program, the T visa program (available to victims of trafficking who cooperate with law enforcement in investigations/prosecutions), and the self-petition process for battered illegal immigrants;
- Allows minor children of illegal aliens who die during their self-petition process to have their derivative petitions for permanent residence adjudicated;
- Extends the same current law Hardship waiver discretion authority for USCIS to cases of illegal aliens who were battered or subject to extreme cruelty after unknowingly entering into a bigamous marriage;
- Provides for national security information sharing by of defense agencies for U visa, T visa, or self-petition applicants.
- Allows DOJ to consider other evidence ~~**including sentencing reports and police reports**~~ related to the conviction in determining whether domestic abuse convictions by illegal aliens satisfies the definition of a crime of violence where conviction records do not conclusively answer the question.

➢ **Indian Tribes**

- Enacts reforms to grants for Indian Tribal Governments and coalitions relating to extended coverage to sex trafficking crimes as well as best practices for responding to domestic violence, dating violence, dating violence, sexual assault, sex trafficking, and stalking in Indian country. It also requires the AG to report to Congress on the annual consultations the AG has with Indian tribal governments on VAWA funded grants. The AG is authorized to expand duties of existing Assistant U.S. Attorney Tribal Liaisons to afford greater focus to domestic violence in Indian country.

- **Authorizes Indian Tribes Special Domestic Violence Jurisdiction. Reports show that domestic and dating violence in Indian country are significantly higher than the national average, and that such offenses committed by non-Indians against Indians on tribal lands tend to be prosecuted with less frequency than other crimes. Indian tribes do not have criminal jurisdiction to prosecute non-Indians—only Federal authorities have exclusive criminal jurisdiction. The bill authorizes Indian tribes to exercise special domestic violence jurisdiction over non-Indian offenders who commit domestic violence offenses against Indians in Indian country and who have ties to the Indian country[4] (punishable up to one year imprisonment). Protection orders against non-Indians are also authorized. The Attorney General must certify that an Indian tribe seeking this authority has the ability to ensure all rights secured by the U.S. Constitution and other federal statutory rights are provided to non-Indian defendants. Additional analysis on this provision is provided within this Legislative Bulletin.**

- **Requires the Attorney General to cross-designate tribal prosecutors as federal prosecutors in at least 10 federally recognized Indian tribes with preference for Indian tribes that do not exercise special domestic violence jurisdiction.**

- **Requires the GAO to report to Congress about the frequency of domestic violence and sexual assault in Indian country, federal law enforcement investigative and enforcement efforts, and federal initiatives to prevent such offenses.**

- Reauthorizes at $1 million (same funding in FY2011) a study on violence committed against Indian women in Alaska Native Villages and sex trafficking crimes for FY2013-FY2017.

➢ **Criminal Provisions**

- Extends authority for the AG to adopt national standards for the detection, reduction, and punishment of rape and sexual assault in federal facilities to DHS and HHS.

- Updates the federal anti-stalking statute to capture more modern forms of communication that perpetrators use to stalk victims.

- Amends the Federal Assault Statute to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating; a five-year offense for assaulting a spouse, intimate partner, or dating partner resulting in substantial bodily harm; and a one-year offense for assaulting a person by striking, beating, or wounding.

- ~~**Imposes a mandatory 10 year prison sentence for conviction of aggravated sexual abuse offense by force, and a five year prison mandatory sentence for**~~

[4] A tribe may exercise this special jurisdiction only over non-Indians who reside or are employed in Indian country or are a spouse, intimate partner, or dating partner of a tribal member or a non-tribal member Indian who resides in Indian country.

~~aggravated sexual assault by "other means" such as the use of drugs to render a victim unconscious.~~

Key Differences Between the Senate Bill and House Substitute: The Senate-passed VAWA bill (S. 47) and the House Amendment are similar in many respects. Mainly, they both reauthorize funding for VAWA programs at similar levels. The main differences between the two involve how each addresses Indian tribe special domestic violence jurisdiction, non-discrimination grantee protections, and conscious clause protections for organizations that provide services to human trafficking victims.

The Senate bill's approach to special domestic violence jurisdiction for Indian tribes involves recognizing Indian tribe's inherent sovereignty in exercising their own prosecutorial powers. A recently published CRS report discusses below some of the constitutional implications of such an approach:

> "If…Congress is permitted to recognize the tribes' inherent sovereignty, so that the tribes are exercising their own powers, the Constitution will not apply. Instead, criminal defendants must rely on statutory protections under the Indian Civil Rights Act or those protected under tribal law. Although the protections found in federal statutory and constitutional sources are similar, there are several important distinctions among them. Most importantly, if inherent sovereignty is recognized and only federal statutory protections are triggered, defendants (1) may be subjected to double jeopardy for the same act; (2) may not be able to exercise fully their right to counsel; (3) may have no right to prosecution by a grand jury indictment; (4) may not have access to a representative jury of their peers; and (5) may have limited federal appellate review of their cases."[5]

The report also explains that it is not clear that Congress has the authority under Supreme Court case law to restore Indian tribes' sovereign authority over non-members, or whether such authority would have to be a delegation of federal authority.

The House Substitute does not recognize the sovereign authority of Indian tribes to prosecute non-Indians. Instead its approach authorizes Indian tribes with federal special domestic violence authority over certain non-Indian offenders while affording a series of procedural and substantive rights including (1) the right to remove the case to federal district court for constitutional or federal statutory violations; (2) the right to seek interlocutory appeal to federal district court of an order of the tribal court; (3) the right to direct appeal to a federal district court of a final judgment of the tribal court; (4) the right to seek release from custody pending appeal; (5) the right to seek habeas relief in federal district court; (6) notice requirements upon tribes to non-Indian defendant's about their right to remove and to appeal as well as to the U.S. Attorney's office when a tribe commences a criminal action against a non-Indian; and (7) providing non-Indian defendants a private right of action to ensure that tribal law enforcement officials abide by constitutional rights of non-Indian defendants.

Secondly, the Senate bill explicitly includes reference to "sexual orientation" and "gender identity" in provisions relating to nondiscrimination protections, STOP grant funding, and the

[5] Page 8 of CRS Report R42488, Tribal Criminal Jurisdiction over Non-Indians in S. 1925, the Violence Against Women Act (VAWA) Reauthorization.

definition of "underserved populations."[6] The Judiciary Committee report for the House-passed H.R. 4970 last Congress explains that nothing in current law prevents all victims (regardless of sexual orientation or gender) from receiving federally-funded resources. Also, the House's Substitute includes a new provision that the Attorney General is permitted to make rules to ensure that grantees or subgrantees providing services with VAWA funds do not impermissibly discriminate in the provision of such services.

Also, by reauthorizing the Trafficking Victims Protection Reauthorization Act without conscious clause protections, the Senate version denies conscious right protections to organizations that provide support services to victims of human trafficking. For example, the Department of Health and Human Services (HHS) denied a grant award to the U.S. Conference of Catholic Bishops (Conference) in 2011 after five years of the Conference providing food, housing, clothing, medical services, counseling, legal assistance, education, and employment services to human trafficking services in over 44 states. HHS's grant solicitation application in that year indicated a new preference for grantees that would offer "the full range of legally permissible gynecological and obstetric care," representing favorability to organizations that refer victims for abortion services. As a result, victims will no longer have access to successful programs administered by groups who refuse to compromise their pro-life beliefs.

Potential Conservative Concerns: Some conservatives have expressed VAWA concerns, in general, that relate to the following areas:

- *Duplicable programs*. Senator Tom Coburn (R-OK) offered an amendment that directed the Attorney General to identify Justice Department programs that are duplicative or have overlapping missions. The attorney general would be directed to eliminate or streamline programs using administrative authorities and identify for Congress what legislative changes are needed. The amendment would require the department to direct at least $600 million in cost savings to analyze the backlog of DNA from sexual assaults. The amendment failed by a vote of 46-53. This bill consolidates 17 VAWA programs into four.

- *Ineffectiveness towards reducing domestic violence*. A Bureau of Justice report shows that intimate partner violence from 1994-2010 has declined by 64%.[7] VAWA critics contend that VAWA-funded programs should not be attributed with contributing to this reduction namely due to the overall decrease in violent crime, etc. Also, some reports indicate that after nearly 20 years of being enacted into law, VAWA proponents can point to no evidence of its success of decreasing domestic violence. Some even suggest that VAWA programs have hurt victims.

- *10th Amendment.* Domestic violence crimes and support services are historically matters that are best addressed at the state and local level.

- *Waste, Fraud, and Abuse*. According to CRS, the DOJ Office of Inspector General has audited several OVW grantees. The reports have cited improper allocation of funds,

[6] The text defines "underserved populations" as populations "who face barriers to accessing and using victim services…" (bill text page 6).
[7] Shannan Catalano, U.S. Department of Justice, Bureau of Justice Statistics, *Intimate Partner Violence, 1993 – 2010*,http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4536.

untimely financial and progress reports, weaknesses in budget management, and other compliance issues.[8] The House Substitute includes stronger taxpayer accountability and transparency provisions described within this Legislative Bulletin.

Specifically relating to the House Substitute:

- Section 3 of the bill includes approved activities permitting VAWA grantees to "collaborate with and provide information to Federal, State, local, tribal, and territorial public officials" and "develop and promote State, local or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking." This section can be construed as permitting grantees to use federal VAWA funds for the purpose of lobbying. Some conservatives would be concerned that federal VAWA funds can be used to lobby government officials for legislation or model codes for domestic abuse despite Section 4's explicit ban on VAWA funds being employed by grantees to lobby DOJ, Congress, or state or local governments *regarding the award of grant funding*.

- The House substitute did not go through regular order Committee consideration.

- Despite being lower than the FY2011 authorization funding levels, the authorization funding levels in the bill for most VAWA programs are higher than the funding levels that have been enacted in recent years as well as President Obama's programmatic budget requests.

- Potential Article II and Article III violations by the Tribal Special Domestic Violence Jurisdiction. A Heritage Foundation blog maintains that the special domestic violence jurisdiction grants tribal judges the authority to enter final judgments of convictions in certain criminal cases even though tribal judges are not appointed by the President, the head of a department, or a court of law, as Article II requires; and it grants tribal courts that authority even though tribal judges lack the life tenure and salary requirements required by Article III.

- Also, the legislation expands federal crimes. Some conservative have been concerned with the growing number of federal crimes as well as regulations that have criminal penalties attached and may believe that efforts should be made to limit federal involvement in crimes that are historically matters of state interest.

[8] U.S. Department of Justice, Office of the Inspector General, Audit of the Office on Violence Against Women Cooperative Agreement Administered by Girls Educational and Mentoring Services: New York, New York, GR-70-12-003, March 2012, http://www.justice.gov/oig/grants/2012/g7012003.pdf; Audit of the Office on Violence Against Women Grants to Jane Doe, Inc.: Boston, Massachusetts, GR-70-11-005, August 2011, http://www.justice.gov/oig/grants/2011/g7011005r.pdf; Audit of Office on Violence Against Women Grants Awarded to the Montana Coalition Against Domestic and Sexual Violence: Helena, Montana, GR-60-11-001, October 2010, http://www.justice.gov/oig/ grants/2010/g6011001.pdf; Office on Violence Against Women Services, Training, Officers, and Prosecution Grants Awarded to the Commonwealth of Virginia Department of Criminal Justice Services, GR-30-10-003, July 2010,http://www.justice.gov/oig/grants/2010/g3010003.pdf; and Office on Violence Against Women Legal Assistance for Victims Grant Program Administered by the Community Legal Aid Society, Inc.: Wilmington, DE, GR-70-10-005, July 2010.

Outside Groups Scored in Opposition to the Senate-passed Bill: Heritage Action (***both*** the House Substitute and Senate version), Freedom Works, Concerned Women for America, FRC Action, Independent Women's Voice, Eagle Forum.

Committee Action: Senator Patrick Leahy *(D-VT)* introduced S. 47 on January 22, 2013. It passed the Senate on February 12, 2013, by a vote of 78-22. No House Committee action has occurred on the bill.

Administration Position: The Obama Administration released a Statement of Administration Policy (SAP) stating it "cannot support the House substitute…" to the Senate-passed S. 47.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate table for the House Substitute Amendment to S. 47 on February 27, 2013. It estimated that implementing the bill could cost about $2.2 billion over the 2013-2018 period. It also released a cost estimate table for the Senate-passed S. 47 showing that it could cost approximately $2.7 billion over the 2013-2018 period.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill creates a new authorization for Indian Tribes to exercise special criminal domestic violence jurisdiction over non-Indians for domestic violence offenses. It also creates a new grant program to assist Indian tribes to implement this new jurisdiction and authorizes $5 million a year for five years. The bill also consolidates a number of previously authorized VAWA programs and institutes new taxpayer accountability provisions that, on balance, aim to reduce the size and scope of the federal government.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: See mention above in Potential Conservative Concerns.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The CBO estimate for H.R. 4970 explains that the bill imposes a private-sector mandate on "brokers of international marriage and certain supervisors over persons under official control of the United States," but that the mandate would not broach the annual threshold established in the Unfunded Mandates Reform Act ($146 million in 2012, adjusted annually for inflation).

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Yes.

Constitutional Authority: Senate rules do not require Senate-introduced bills to include a Constitutional Authority Statement that House rules require. Although, the Constitutional Authority Statements accompanying H.R. 4970 from last Congress states: "Congress has the power to enact this legislation pursuant to the following: The authority to enact this bill is derived from, but may not be limited to, Article I, Section 8, Clause 3 [the Commerce Clause] of the United States Constitution."

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