

## **VAWA 2005 CHANGES**

### **CONFIDENTIALITY**

#### **SEC. 3. UNIVERSAL DEFINITIONS AND GRANT PROVISIONS.**

##### ***DEFINITIONS***

(18) **PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.**--The term 'personally identifying information' or 'personal information' means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including--

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number; and

(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.

#### **SEC. 3. UNIVERSAL DEFINITIONS AND GRANT PROVISIONS.**

##### ***GRANT PROVISIONS***

(2) **NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.**--

(A) **IN GENERAL.**--In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

(B) **NONDISCLOSURE.**--Subject to subparagraphs (C) and (D), grantees and subgrantees shall not--

(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.

(C) **RELEASE.**--If release of information described in subparagraph (B) is compelled by statutory or court mandate--

(i) grantees and subgrantees shall make reasonable attempts to provide

notice to victims affected by the disclosure of information; and

(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(D) INFORMATION SHARING.--Grantees and subgrantees may share--

(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

(E) OVERSIGHT.--Nothing in this paragraph shall prevent the Attorney General from disclosing grant activities authorized in this Act to the chairman and ranking members of the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate exercising Congressional oversight authority. All disclosures shall protect confidentiality and omit personally identifying information, including location information about individuals.

#### SEC. 107. PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING.

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

42 USCA prec. § 14043b

Subtitle K--Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking

42 USCA § 14043b

#### SEC. 41101. GRANTS TO PROTECT THE PRIVACY AND CONFIDENTIALITY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

The Attorney General, through the Director of the Office on Violence Against Women, may award grants under this subtitle to States, Indian tribes, territories, or local agencies or nonprofit, nongovernmental organizations to ensure that personally identifying information of adult, youth, and child victims of domestic violence, sexual violence, stalking, and dating violence shall not be released or disclosed to the detriment of such victimized persons.

42 USCA § 14043b-1

#### SEC. 41102. PURPOSE AREAS.

Grants made under this subtitle may be used--

(1) to develop or improve protocols, procedures, and policies for the purpose of preventing the release of personally identifying information of victims (such as

developing alternative identifiers);

(2) to defray the costs of modifying or improving existing databases, registries, and victim notification systems to ensure that personally identifying information of victims is protected from release, unauthorized information sharing and disclosure;

(3) to develop confidential opt out systems that will enable victims of violence to make a single request to keep personally identifying information out of multiple databases, victim notification systems, and registries; or

(4) to develop safe uses of technology (such as notice requirements regarding electronic surveillance by government entities), to protect against abuses of technology (such as electronic or GPS stalking), or providing training for law enforcement on high tech electronic crimes of domestic violence, dating violence, sexual assault, and stalking.

#### 42 USCA § 14043b-2

##### SEC. 41103. ELIGIBLE ENTITIES.

Entities eligible for grants under this subtitle include--

(1) jurisdictions or agencies within jurisdictions having authority or responsibility for developing or maintaining public databases, registries or victim notification systems;

(2) nonprofit nongovernmental victim advocacy organizations having expertise regarding confidentiality, privacy, and information technology and how these issues are likely to impact the safety of victims;

(3) States or State agencies;

(4) local governments or agencies;

(5) Indian tribal governments or tribal organizations;

(6) territorial governments, agencies, or organizations; or

(7) nonprofit nongovernmental victim advocacy organizations, including statewide domestic violence and sexual assault coalitions.

#### 42 USCA § 14043b-3

##### SEC. 41104. GRANT CONDITIONS.

Applicants described in paragraph (1) and paragraphs (3) through (6) shall demonstrate that they have entered into a significant partnership with a State, tribal, territorial, or local victim service or advocacy organization or condition in order to develop safe, confidential, and effective protocols, procedures, policies, and systems for protecting personally identifying information of victims.

#### 42 USCA § 14043b-4

##### SEC. 41105. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.--There is authorized to be appropriated to carry out this subtitle \$5,000,000 for each of fiscal years 2007 through 2011.

(b) TRIBAL ALLOCATION.--Of the amount made available under this section in each fiscal year, 10 percent shall be used for grants to Indian tribes for programs that assist victims of domestic violence, dating violence, stalking, and sexual assault.

(c) TECHNICAL ASSISTANCE AND TRAINING.--Of the amount made available under this section in each fiscal year, not less than 5 percent shall be used for grants to organizations that have expertise in confidentiality, privacy, and technology issues impacting victims of domestic violence, dating violence, sexual assault, and stalking to provide technical assistance and training to grantees and non-grantees on how to improve safety, privacy, confidentiality, and technology to protect victimized persons.

## **JUDICIAL NOTIFICATION REGARDING FIREARM PROHIBITIONS**

### **SEC. 101. STOP GRANTS IMPROVEMENTS**

42 USCA § 3796gg-4

(e) JUDICIAL NOTIFICATION.--

(1) IN GENERAL.--A State or unit of local government shall not be entitled to funds under this part unless the State or unit of local government--

(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of title 18, United States Code, and any applicable related Federal, State, or local laws; or

(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of--

(i) the period ending on the date on which the next session of the State legislature ends; or

(ii) 2 years.

## **CUSTODY PROVISIONS**

### **SEC. 106. FULL FAITH AND CREDIT IMPROVEMENTS**

18 USCA § 2266

(5) PROTECTION ORDER.--The term 'protection order' includes--

(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a *pendente lite* order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.

## **FIREARMS PROVISIONS**

### **SEC. 908 ENHANCED CRIMINAL LAW RESOURCES**

18 USC § 921 (33) (A) (i)

**FIREARMS POSSESSION PROHIBITIONS.**--Section 921(33)(A)(i) of title 18, United States Code, is amended to read: "(i) is a misdemeanor under Federal, State, or Tribal law; and".

## **FULL FAITH AND CREDIT IMPROVEMENTS**

### **SEC. 106. FULL FAITH AND CREDIT IMPROVEMENTS**

18 USCA § 2265

**(a) ENFORCEMENT OF PROTECTION ORDERS ISSUED BY TERRITORIES.**--

Section 2265 of title 18, United States Code, is amended by--

(1) striking "or Indian tribe" each place it appears and inserting ", Indian tribe, or territory"; and

(2) striking "State or tribal" each place it appears and inserting "State, tribal, or territorial".

18 USCA § 2265

**(b) CLARIFICATION OF ENTITIES HAVING ENFORCEMENT AUTHORITY AND RESPONSIBILITIES.**--Section 2265(a) of title 18, United States Code, is amended by striking "and enforced as if it were" and inserting "and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were".

18 USCA § 2265

**(c) LIMITS ON INTERNET PUBLICATION OF PROTECTION ORDER**

**INFORMATION.**--Section 2265(d) of title 18, United States Code, is amended by adding at the end the following:

**(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION**

**INFORMATION.**--A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.".

**(d) DEFINITIONS.**--Section 2266 of title 18, United States Code, is amended--

18 USCA § 2266

(1) by striking paragraph (5) and inserting the following:

**(5) PROTECTION ORDER.**--The term 'protection order' includes--

(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an

independent action or as a *pendente lite* order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking."; and

18 USCA § 2266

(2) in clauses (i) and (ii) of paragraph (7)(A), by striking "2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser" and inserting "2261A-

(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or

(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.