

Vote “NO!” on

HR 739: Security and Financial Empowerment (SAFE) Act

Sponsors:

Lucille Roybal-Allard (D-CA) and Ted Poe (R-TX)

Introduced:

January 28, 2009

Bill Summary:

HR 739 allows any person who claims to have suffered from domestic violence or “substantial emotional distress or psychological harm” to be indefinitely employed at any company (not just the company where the person currently works), and be entitled to 30 days of emergency leave as well as unemployment compensation.

No hard evidence of domestic violence is required to receive these benefits – the person only has to sign a sworn statement. Any person whose family or household member has been a DV victim is also entitled to the same benefits. HR 739 also allows any person who “is, has been, or may be the subject of abuse” to qualify for a lifetime of health insurance coverage.

The Findings do not make a convincing case that victims of domestic violence face widespread or systematic workplace discrimination, or that federal intervention is needed.

The bill amounts to a lifetime guarantee of job security and availability of employer-subsidized health insurance for any person who claims to be a victim of domestic violence or psychological abuse, or for any family member.

The entire bill can be seen at: <http://www.govtrack.us/congress/billtext.xpd?bill=h111-739>

RADAR Recommendation:

By creating strong incentives for false claims, the bill trivializes the problem of domestic violence and would marginalize true victims. The bill would also impose billions of dollars in new liabilities on U.S. employers each year. RADAR recommends *against* passage of HR 739.

Authorized Amount:

Year 1: \$1 million

Years 2-4: \$12 million/year

Committees Referred to:

1. Education and Labor
2. Ways and Means
3. Financial Services

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Detailed Analysis:

Findings:

The bill contains 33 findings (Section 2). The Findings are based on research that is outdated, non-representative, or discredited; on claims that are vague, one-sided or unverifiable; on crime statistics that present a biased picture of domestic violence; and/or on skewed statements by advocacy organizations:

1. Only one finding (#15) directly supports the claim that significant number of DV victims subsequently lost their jobs – but the finding comes from a report that is more than a decade old.
2. The first finding (violence against women is the “leading cause of physical injury to women”) is flatly untrue. According to professor Richard Gelles: “Unfortunately, as good a sound bite as it is, the statement is simply not true.”
3. Many findings are lifted word for word from a 2005 statement posted on the National Organization for Women website – NOW subsequently removed the information.
4. Many findings are based on crime statistics that are known to underreport and bias the true extent of DV.
5. Many findings are one-sided and/or use inflammatory language (e.g., “terrorize their victims”).
6. Many findings are really opinions.
7. Many findings are based on outdated information. One finding (#26) is based on a single 1981 survey of 27 women in Atlanta, GA.
8. Many findings are unverifiable because they are anecdotal, worded in general terms, and/or come from unpublished sources.

Definitions:

The bill relies on definitions that are vague and overly-broad:

1. The bill relies on the same subjective and overly-broad definitions for “domestic violence” and “stalking” as VAWA. (VAWA defines stalking as “engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.”) (Section 3)
2. The bill expansively defines a “victim of domestic violence” to include both the actual victim *and* any “person whose family or household member has been a victim of domestic violence, dating violence, sexual assault, or stalking.” (Section 3)
3. Title IV of the bill defines “abuse” to include physical violence as well as “substantial emotional distress or psychological harm,” placing “the person in reasonable fear of bodily injury or physical harm,” and “attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.” (Section 402)

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Title I: Entitlement to Emergency Leave

1. The bill allows the “victim” to do safety planning, move to a new house, or even take “other actions to increase the safety of the employee,” whatever that means. (Section 102, paragraph a)
2. The Certification section allows a person to “prove” she is a DV victim based solely on a restraining order, letter by a social worker or shelter worker, or even a sworn statement. (Section 102, paragraph c)
3. Allows regulations be issued to enforce this section. (Section 106)

Title II: Entitlement to Unemployment Compensation

1. Amends the Internal Revenue Code to entitle persons who claim to be DV victims to unemployment compensation. (Section 202, paragraph a)
2. The Certification section allows a person to “prove” she is a DV victim based solely on a restraining order, letter by a social worker or shelter worker, or even a sworn statement. (Section 202, paragraph a, subparagraph 2)
3. Includes provision to do DV training of TANF personnel (Section 202, paragraph c), costing \$1 million in Year 1 and \$12 million/year in Years 2-4. (Section 202, paragraph d)
4. Restricts eligibility to do this training to only existing DV organizations (Section 202, paragraph d)

Title III: Victims’ Employment Sustainability

1. Prohibits any employer from ever failing to hire or terminating any DV victim. (Section 303, paragraph a)
2. Grants any person the right to sue and be paid compensatory and punitive damages up to three times the amount of actual damages sustained. (Section 304)
3. Amends Title VI of the 1964 Civil Rights Act regarding attorney’s fees. (Section 305)
4. Allows regulations be issued to enforce this Title. (Section 306)

Title IV: Victims of Abuse Insurance Protection

1. Prohibits an insurance carrier from denying or canceling health insurance coverage for a DV victim. (Section 403)
2. Adds caretaker abuse (Section 402, sub-section 1)
3. Uses a far broader definition of DV victim than used elsewhere in the bill: a person who “is, has been, or may be the subject of abuse.” (Section 403)
4. Grants any person the right to sue, to have the case judged using the “preponderance of evidence” standard, and be paid compensatory and punitive damages. Alternatively, “the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of \$5,000 for each violation.” (which amounts to an easy \$5,000 for a baseless claim). (Section 408)