

Be it enacted...

**Section One: Short Title.**

This act may be cited as the “HONORING OUR COMMITMENT TO ELIMINATE DOMESTIC VIOLENCE ACT OF 2021.”

**Section Two: Definitions.**

1) DEFINITIONS.

- a) DOMESTIC VIOLENCE-- The term ‘domestic violence’ means a pattern of behavior involving the use or attempted use of physical, sexual, verbal, emotional, economic, legal, medical, technological abuse, stalking, monitoring or isolation; or any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim or the children of a victim, or a person cared for by the victim, by a person who ---
  - i) Is a current or former spouse or dating partner of the victim, or other person similarly situated to a spouse of the victim under the family or domestic violence laws of the jurisdiction;
  - ii) Is cohabitating with or has cohabitated with the victim as a spouse or dating partner, or other person similarly situated to a spouse of the victim under the family or domestic violence laws of the jurisdiction;
  - iii) Shares a child in common with the victim;
  - iv) Is an adult family member of, or paid or unpaid caregiver for, a victim aged 50 or older or an adult victim with disabilities; or
  - v) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction
- b) TECHNOLOGICAL ABUSE-- The term ‘technological abuse’ means behavior intended to harm, threaten, intimidate, control, stalk, harass, impersonate, or monitor, except as otherwise permitted by law, another person and that occurs using the Internet, internet-enabled devices, social networking sites, computers, mobile devices, cellular telephones, apps, location tracking devices, instant messages, text messages, or other forms of technology. Technological abuse may include, but is not limited to:
  - i) Unwanted, repeated telephone calls, text messages, instant messages, or social media posts from any platform;
  - ii) Non-consensual accessing by the abuser or a third party on the abuser’s behalf of the targeted victim’s e-mail accounts, texts or instant messaging account, social networking accounts, or cellular telephone logs;
  - iii) Controlling or restricting a person’s ability to access technology with the intent to isolate them from other persons;
  - iv) Using tracking devices or location tracking, keystroke, spouseware, spyware or other software for the purpose of monitoring or stalking another person’s location or electronic devices;

- v) Impersonating a person (including through the use of spoofing technology in photo or video or the creation of account under a false name) with the intent to deceive or cause harm; or
  - vi) Sharing or urging or compelling the sharing of another person's private information, photographs, or videos without their consent.
- c) **INTERNET-ENABLED DEVICE**-- The term 'internet-enabled device' means devices that have a connection to the Internet, send and receive information and data, and may be accessed via mobile device technology, video technology, or computer technology, away from the location where the device is installed, and may include home automation system, home security systems, door locks, thermostats and other home-assisted technologies.
- d) **ECONOMIC ABUSE**-- The term 'economic abuse' means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including through coercion, fraud, or manipulation to--
- i) Restrict a person's access to money, assets, credit, or financial information
  - ii) Unfairly use a person's personal economic resources, including but not limited to, money, assets, and credit, for one's own advantage; or
  - iii) Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.
- e) **COERCIVE CONTROL** means a pattern of threatening, humiliating or intimidating actions, including speech acts, which may, but need not necessarily include, assault or other abusive conduct used to harm, punish or frighten an individual. Coercive control is intended by an abuser to make the target dependent upon the abuser by isolating them from support or exploiting them or depriving them of independence, and regulating/controlling their behavior by:
- i) Isolating the victim from family and friends;
  - ii) Controlling economic resources available to the victim and/or how it is spent;
  - iii) Monitoring the victim's activities, communications and/or movements;
  - iv) Repetitive name-calling, denigration, and demeaning of the victim;
  - v) Threatening to kill or harm the victim or her children and/or pets or to take steps to separate the victim from her children and or pets;
  - vi) Threatening to publish or publishing false and/or embarrassing information, videos, photographs, or other depictions of the victim;
  - vii) Making false reports to police or other agents of government, including, but not limited to, child protective services;
  - viii) Damaging the victim's property or household items; and/or
  - ix) Forcing the victim to engage in criminal activity or child abuse.

### **Section Three: Congressional Findings.**

- 1) Intimate, private, or domestic violence is a pervasive issue that affects 10 million people in the United States each year, resulting in 1500 partner deaths annually. As estimated by the CDC, the societal costs of domestic violence are more than \$3.6 trillion, including costs associated with medical service, lost productivity from work, and the opportunity costs associated with endless court proceedings. The pervasiveness and magnitude of the human and economic impact make its elimination, to the maximum extent possible, a matter of urgent national importance.
- 2) Domestic violence occurs through stalking, economic abuse, emotional abuse, psychological abuse, neglect, physical abuse, technological abuse, abuse of the legal or medical systems, and/or other means which increase the abuser's power and control.
- 3) Domestic violence is not limited to persons of any specific class, sexual preference, race, ethnicity, age, gender, geography, education, ability, citizenship status, political affiliation, or religion. Instead, the issue is national in scope and must be so addressed, and this Congress so finds in furtherance of its authority under the Commerce Clause.
- 4) The Legal Services Corporation (LSC) reported that in 2017, low-income persons approached its organization with an estimated 1.7 million civil legal problems, with 53%-70% of the problems receiving little to no legal help.
- 5) The LSC found that in 2017 low-income survivors of recent domestic violence [or sexual assault] received inadequate or no professional help for 86% of their civil legal problems and constitute 8% of all civil legal problems of all low-income households.
- 6) Many courts and police agencies remain unreceptive to the victims of domestic abuse, facilitating abusive conduct, and empowering abusers to make frequent and repetitive use of the courts until they accomplish their objectives.
- 7) Generally, COVID-19 also has occasioned increases in reported domestic violence cases, making more urgent the establishment of Private Violence Legal Services.

Congress hereby declares its intent to ensure that all victims of domestic violence in the United States, regardless of current immigration status, have access to high-quality legal services, including investigative, advocacy, and counseling. Congress further finds that the provision of stand-alone services through an entity exclusively committed to this purpose better assures attainment of this objective than any alternative structure. Congress further finds that creating and funding such a dedicated entity will cause highly qualified persons interested in eliminating domestic violence to join together for this purpose.

### **Section Four: Funding, Structure and Staffing.**

- 1) To ensure adequate funding, the NLADA's Civil Legal Aid Initiative and LSC shall receive \$500 million beginning in fiscal year 2022 to create and operate a new legal services organization staffed by personnel dedicated to representing victims of domestic violence. Said funds shall be devoted to representation of victims of domestic violence and so accounted for.
- 2) NLADA and LSC shall use these funds to create at least one Private Domestic Violence Legal Service Offices [PDVLSO] in every congressional district.

- 3) The director of each such office shall be appointed and may be removed, by a majority vote of the members of an independent Board of Directors which shall be comprised equally of domestic violence experts, victim advocates, victims, and other persons who have relevant training in the field of domestic violence. Said Board of Directors shall be selected by each state's Congressional delegation within thirty days of the effective date of this legislation. The senior member of said delegation shall convene all members and ensure timely selection of the Board of Directors, which shall then promptly designate its own officers. Standards, qualifications, remuneration, and benefits for personnel necessary to staff each office shall be determined by the respective Executive Director and be approved by the Board of Directors. Each office shall establish continuing training requirements for staff so as to ensure ongoing familiarity with best practices.
- 4) LSC shall ensure that each state hires or otherwise accesses the following staff who shall be made available to each office created hereby, and the clients served therein:
  - a) A qualified domestic violence advocate with demonstrated expertise in screening for, and determining an abuser as defined above. This advocate shall have a minimum of 250 documented hours in domestic violence training [or its equivalent in other formal education in domestic violence] and shall conduct quarterly training for statewide staff relating to domestic violence, post-separation violence, cyberstalking, and counter-parenting. If qualified by the Court, this advocate may provide expert testimony on behalf of office clients.
  - b) IT/electronics expert to assist in office internet security, as well as consult with office clients with regard to electronic safety and security and to gather evidence of electronic breaches against clients. If qualified by the Court, this expert may provide expert testimony on behalf of office clients.
  - c) Forensic accountant to assist staff in tracing assets hidden by abusers.

#### **Section Five: Legal Practice Standards.**

- 1) In light of the priority Congress intends to be placed on assisting victims of domestic violence, as defined herein, the following practice standards are hereby established:
  - a) A staff attorney shall meet with each client within 72 hours of assignment via telephone or in-person consultation;
  - b) A staff attorney shall serve and advance their client's short term and long-term interests, including providing services directed toward achieving economic independence and permanent protection from the abuser;
  - c) Each Director shall ensure that her/his staff routinely visit local domestic violence agencies, service providers, centers, and other domestic violence-related organizations to inform victims of their legal rights and the services they provide and to obtain from victims and other concerned persons feedback on the efficacy of the program;
  - d) The PVLS shall initiate and take any legal action deemed necessary to safeguard and advocate for the rights and welfare of any client. This shall include but not be limited to the following:

- i) Seeking, renewing, and ensuring the enforcement of protective orders. PVLS shall help victims secure child custody orders so that a victim and her children can safely leave any abusive person.
  - ii) Representing his/her client in obtaining a divorce and/or permanently separating from the abusive person. The PVLS shall provide other legal services in matters relevant to ensuring the separation is sustainable and shall continue to represent clients with respect to post-decree motions and post-judgment legal actions, including those seeking remedies for continued instances of harassment and/or contempt of previously-entered court orders.
  - iii) Building and fostering a collaborative response for persons experiencing domestic violence. This process may involve assisting the abused person and others affected by the abuse engage health care providers, educators, substance abuse programs, daycare and family support providers, mental health care providers, domestic violence advocacy groups, and others, as necessary.
  - iv) Providing post-decree representation aimed at curbing abuse of the court system by domestic violence abusers through, as required and necessary, the levying of judicial sanctions for those who have intentionally misused the courts as a means of protracting litigation and harassing the victim. For these purposes, the term “intentionally misused the courts” refers to a judicial finding that a litigant has engaged in vexatious, meritless, frivolous, malicious litigation for the primary, though not necessarily the exclusive motive, of causing annoyance, anguish and/or continuing engagement and legal expense to the victims.
  - v) Advocating for legal fees to be collected from persons adjudicated to have committed acts of domestic violence or persons adjudicated to have abused or misused the court system, as referred to in (iv) immediately above. Any such fees shall be divided equally between the victim of domestic violence and the office obtaining such an award and shall be awarded against the perpetrator upon a finding that s/he has misused the court system for the purpose of abusing or harassing another after the entry of a decree of separation, divorce and/or child custody. Failure to pay any such fee may occasion a finding of criminal or civil contempt as adjudicated by the presiding court, which may impose appropriate sanctions commensurate with those provided by state law following such a finding.
- 2) Each legal services office created by and through this legislation shall provide to legal and helping professionals within their jurisdiction at least one annual conference that addresses the status of domestic violence advocacy and provides pertinent training in all areas covered by this statute. Said training may be ongoing and should be sufficient to reasonably ensure that professionals working to extirpate domestic violence and post-separation harassment, as defined herein, have access to best practices. The Director shall invite to said conference and such additional training judges, attorneys, guardians at litem, and other professionals who are charged with the well-being of adult targets of abusers and their children.

**Section Six: Duration.**

The funding provided by this statute shall be subject to bi-annual review, and the level set forth herein shall apply for FY 2022 and 2023.

**Section Seven: Savings Provision.**

If any provision of this law is found to be unlawful or unconstitutional, the remaining sections shall remain in full force and effect.