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This new, thought-provoking 17” x 22”, four-color poster encourages people to think about the innovative concept of Parallel Justice—a system of justice for crime victims separate and distinct from the adjudication of offenders. “Bars and Bandaids” will encourage discussion about what justice means for crime victims.

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Victim Assistance Funding Falls

When the appropriations measures for Fiscal Year 2003 were finalized in February, Congress set a new cap on the Victims of Crime Act (VOCA) Fund at $600 million. This makes the fourth consecutive year that the amount of VOCA money available for disbursement has been capped by Congress at amounts ranging from $500 million to $600 million, despite accruals in the VOCA account of over $1 billion. This year, due to a change in the way VOCA funds are distributed, the cap on the VOCA Fund will result in a decrease in victim assistance grants of approximately eight percent.

While this drop in funding was less than advocates had feared, it comes at a particularly bad time for victim service providers. With foundation funding and corporate support still down, and state funding severely restricted, an eight percent drop

continued on page 2

DOJ Appropriations Authorization Act Enacted

A summary for victim advocates

On November 2, 2002, President Bush signed into law the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215). This legislation reauthorizes and amends Department of Justice (DOJ) grant programs and makes numerous federal statutory changes. Actual funding for these programs, through the appropriations bill for Commerce, Justice, State, and the Judiciary (S.2778), currently awaits congressional action.

One of the provisions most eagerly anticipated by victim advocates was the creation of a separate and independent Violence Against Women Office within the Department of Justice.

continued on page 6
in federal funding will have a significant impact on the ability of local programs to meet the needs of victims.

**Background**

The VOCA Fund consists of fines and penalties imposed on federal offenders. The bulk of the money is distributed each year by formula grants to the states to fund both their crime victim compensation programs, which pay many of the out-of-pocket expenses incurred by victims, and victim assistance programs, such as rape crisis centers, domestic violence shelters, victim assistants in law enforcement and prosecutor offices, and other direct services for victims of crime.

This year’s eight percent decrease in funding for services results from a change in the VOCA formula enacted in October 2001 as part of the anti-terrorism legislation, the USA PATRIOT Act, Pub. L. 107-56. The amount of VOCA money a state receives for compensation is limited to a percentage of what that state paid out in a given year. Previously, states received a reimbursement of 40 percent of what they paid out in crime victim compensation. Beginning in Fiscal Year 2003, that amount increases to 60 percent of what the state paid out. The increase in VOCA funds that states will receive for compensation programs will limit the funds available each year for crime victim services. The USA PATRIOT Act had coupled the formula change with a predictable annual increase in the VOCA cap that would have offset the loss of funds for victim services. However, that annual increase mechanism was stricken by congressional appropriators when they passed the appropriations measures for Fiscal Year 2002.

Additionally, new earmarks on the Fund were enacted over the last several legislative sessions, limiting the amount of money ultimately available to states to fund local programs. These earmarks provide for victim/witness coordinators in U.S. Attorneys’ offices, for victim assistance in the FBI, and for an automated victim notification system at the federal level. Such expenditures are expected to be nearly $34 million in FY 03.

**The Impact**

VOCA assistance grants are a principle source of funding for victim assistants within the criminal justice system in law

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**Dear Reader:**

Over the course of the past year, we’ve come to recognize that our electronic Policy Updates and expanded web coverage have largely supplanted the need for a separate quarterly publication devoted to policy issues. These electronic forums provide you with more timely access to the information you need to effectively advocate on behalf of victims of crime. We will, however, feature expanded policy and legislative analyses on key crime victim issues in the National Center’s flagship magazine, NETWORKS.

While this is our last issue of *Victim Policy Pipeline*, we remain committed to working with you to secure rights, resources, and protections for all victims of crime.

Susan Howley
Director of Public Policy
enforcement offices, district attorneys’ offices, corrections departments, etc. They are also the lifeblood of many non-profit victim assistance organizations, including domestic violence programs, homicide survivor support organizations, sexual assault services, and general victim services programs. The decrease in VOCA assistance funding will impact the ability of

The Future
As Congress begins work on appropriations for Fiscal Year 2004, advocates at the national level have joined forces to request that additional funds be released from the reserve, bringing VOCA spending to $685 million for FY 04. Such an increase would serve to restore funding lost in the current fiscal year and begin to allow programs to expand services to the millions of unserved and underserved victims of crime. It is critical that advocates continue to educate lawmakers about the VOCA Fund and its purpose, the additional funding needed to serve victims of crime, and the impact of this year’s funding cut. Members of Congress can be reached through the Capitol Switchboard, at (202) 224-3121, or through www.congress.org.

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<thead>
<tr>
<th>State</th>
<th>FY 02</th>
<th>FY 03</th>
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<tr>
<td>California:</td>
<td>$42.7 million</td>
<td>$39.3 million</td>
<td>$3.4 million</td>
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<td>New York:</td>
<td>$24.2 million</td>
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<td>Ohio:</td>
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<td>Pennsylvania:</td>
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<td>Texas:</td>
<td>$26.5 million</td>
<td>$24.4 million</td>
<td>$2.1 million</td>
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In addition, such a cut will likely curtail any efforts to reach victims who are unserved and underserved, including crime victims with disabilities, victims in rural areas, teen victims, and victims facing language or other barriers.
## Key victim-related legislation for the 108th Congress

The following chart provides a quick review of some of the bills affecting crime victims that have already been introduced in the 108th Congress. For updates on victim-related legislation, watch the National Center’s E-mail Public Policy Updates or visit our website at [www.ncvc.org/law/policy/legislation](http://www.ncvc.org/law/policy/legislation).

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<tr>
<td><strong>Debbie Smith Act</strong>&lt;br&gt;H.R. 1046</td>
<td>Authorizes grants for states to establish sexual assault nurse examiner programs and to train law enforcement and first responders on handling sexual assault cases and forensic evidence. Provides authorization for funding to reduce the current DNA backlog awaiting analysis and to enter the data into the Combined DNA Index System. Authorizes the use of federal John Doe warrants when a DNA profile has been created from crime scene evidence but has yet to be matched to a suspect.</td>
<td>Referred to House Judiciary Committee 3/4/03</td>
<td>Representatives Mark Green (R-WI) and Carolyn Maloney (D-NY)</td>
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<td><strong>DNA Database Completion Act</strong>&lt;br&gt;H.R. 537</td>
<td>Authorizes an increase in funding for the DNA Analysis Backlog Elimination Act to process crime scene evidence, including sexual assault forensic examination kits. Proposes $100 million a year for each of the next five years.</td>
<td>Referred to the House Judiciary Committee 2/5/03</td>
<td>Representative Robert Andrews (D-NJ)</td>
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<td><strong>DNA Sexual Assault Justice Act</strong>&lt;br&gt;S. 152</td>
<td>Authorizes an increase in federal funding for the DNA Analysis Backlog Elimination Act to process crime scene evidence, including rape kits. Creates grant programs to establish and maintain sexual assault forensic examiner programs and to train law enforcement and other first responders on proper evidence collection and drug-facilitated sexual assault. Authorizes the use of federal John Doe warrants when a DNA profile has been created from crime scene evidence but has yet to be matched to a suspect.</td>
<td>Referred to the Senate Judiciary Committee 1/14/03</td>
<td>Senator Joseph Biden (D-DE)</td>
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<td><strong>Elder Justice Act</strong>&lt;br&gt;S. 333</td>
<td>Creates Offices of Elder Justice within the Departments of Justice and Health and Human Services. Provides for data collection on elder abuse and for additional research and training to strengthen services and prevention. Calls for improved conditions in long-term care facilities as well as the development of model state laws and practices relating to elder abuse, neglect, and exploitation.</td>
<td>Referred to the Senate Finance Committee 2/10/03</td>
<td>Senator John Breaux (D-LA)</td>
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<td><strong>Justice Enhancement and Domestic Security Act</strong>&lt;br&gt;S. 22</td>
<td>Large Democratic crime bill that incorporates many bills of interest to crime victim advocates: Elder Justice Act, DNA Sexual Assault Justice Act, Crime Victims Assistance Act, Our Lady of Peace Act, and the National Amber Alert Network Act.</td>
<td>Referred to Senate Judiciary Committee 1/7/03</td>
<td>Senator Tom Daschle (D-SD)</td>
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<td><strong>Keeping Children and Families Safe Act</strong>&lt;br&gt;H.R. 14&lt;br&gt;S. 342</td>
<td>Reauthorizes and improves the Child Abuse Prevention and Treatment Act (CAPTA). Emphasizes prevention of child abuse and neglect, encourages partnerships between child protective services and community-based organizations, funds projects to address child abandonment, and provides assistance for programs working to eliminate barriers to adoption. Includes funding for public awareness campaigns about appropriate reporting of suspected child mistreatment and training for child protective workers on working cooperatively with parents during child abuse investigations. Extends the authorization for the Family Violence Prevention and Services Act (FVPSA).</td>
<td>Passed House Education and the Workforce Committee 3/6/03 Passed Senate HELP, Education, Labor, and Pensions Committee 3/4/03</td>
<td>Representative Peter Hoekstra (R-MI) Senator Judd Gregg (R-NH)</td>
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<td><strong>National AMBER Alert Network Act</strong>&lt;br&gt;S. 121&lt;br&gt;H.R. 412</td>
<td>Creates a national AMBER Alert system to rapidly alert the public when a child is reported missing. Establishes an AMBER Alert Coordinator within the Department of Justice, and would establish voluntary, minimum standards for coordination between various AMBER alert systems across the country. Provides for a grant program in the Department of Transportation to fund AMBER Alert programs.</td>
<td>Passed Senate 1/21/03&lt;br&gt;Referred to the following House Committees: Judiciary, Transportation and Infrastructure 1/28/03</td>
<td>Senators Kay Bailey Hutchison (R-TX) and Dianne Feinstein (D-CA) Representative Martin Frost (D-TX)</td>
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<td><strong>Rape Kits and DNA Evidence Backlog Elimination Act</strong>&lt;br&gt;S. 149</td>
<td>Authorizes an increase in funding for the DNA Analysis Backlog Elimination Act to process crime scene evidence, including rape kits; to create a grant program for sexual assault forensic examiner programs; and to create a grant program to train prosecutors in the use of DNA evidence. Would also eliminate the federal criminal statute of limitations for the kidnapping of a minor and felony sex offenses, and extend the statute of limitations in other federal felony cases where there is DNA evidence.</td>
<td>Referred to the Senate Judiciary Committee 1/13/03</td>
<td>Senator Mike DeWine (R-OH)</td>
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<td><strong>Right Start Act</strong>&lt;br&gt;S. 18</td>
<td>Includes, as part of a larger bill to promote early learning and quality child care, victim-related provisions that extend coverage under the Family and Medical Leave Act to victims of domestic violence or dating violence. Allows employees to use family and medical leave when they are unable to work due to an incident of domestic violence, or when they are responding to such violence by seeking medical attention, attending court proceedings or obtaining legal services, participating in safety planning, or receiving counseling and services from domestic violence programs. Provides for leave for employees to care for a son, daughter, or parent who is a victim of domestic violence or dating violence.</td>
<td>Referred to the Health, Education, Labor, and Pensions Committee 1/7/03</td>
<td>Senator Tom Daschle (D-SD)</td>
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<td><strong>Teacher Victims’ Family Assistance Act</strong>&lt;br&gt;H.R. 416</td>
<td>Provides assistance to families of teachers and other school employees killed by an act of violence while performing school duties; includes funeral assistance, a death benefit of $75,000, living assistance for surviving spouses or dependent children, and tuition assistance for dependent children. Provides tax relief for such families and makes families entitled to medicare benefits.</td>
<td>Referred to the following House Committees: Education and the Workforce, Ways and Means, Energy, and Commerce 1/28/03</td>
<td>Representative Alcee Hastings (D-FL)</td>
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<td><strong>Victims’ Rights Constitutional Amendment</strong>&lt;br&gt;S.J.Res. 1&lt;br&gt;H.J.Res. 10</td>
<td>Proposes an amendment to the Constitution of the United States to protect the rights of victims of violent crime.</td>
<td>Referred to the Senate Judiciary Committee 1/7/03</td>
<td>Senators Jon Kyl (R-AZ) and Dianne Feinstein (D-CA) Representative Edward Royce (R-CA)</td>
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<td><strong>No Short Title</strong>&lt;br&gt;S. 326</td>
<td>Extends the time for prosecution by court-martial of an offense involving sexual or physical abuse of a child under the age of 18 until the minor victim reaches the age of 25. Generally, under existing court-martial provisions, an offense must be charged within five years of its commission.</td>
<td>Referred to the House Judiciary Committee 1/7/03 Referred to the Senate Armed Services Committee 2/6/03</td>
<td>Senator Bill Nelson (D-FL)</td>
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The Office will be headed by a presidentially appointed director, who will report directly to the U.S. Attorney General. The duties and functions of the position include, among other things: developing protocols, policy, and guidelines, and administering grant programs, as defined in the Violence Against Women Act; representing the Department of Justice on various task forces and committees that deal with violence against women; and providing technical assistance to other federal, state, tribal, and local governments in efforts to develop policy and undertake efforts to combat violence against women.

The passage of H.R.2215 enacted the United States Supreme Court’s recent clarification and reorganization of the federal rules of criminal procedure. Some changes to Rule 32, “Sentencing and Judgment,” affect victims in particular:

- Extends to minor victims of sexual exploitation, of selling or buying of children, and of certain child pornography offenses, the right to make a statement at sentencing. Previously, that right applied only to victims of violent crimes or sexual abuse.
- Includes more specific language requiring the probation officer preparing the presentence report to conduct an investigation into restitution-related matters, where the law requires restitution.
- Gives the court authority to hear in camera (privately, within the judge’s chambers) any of the permissible statements at sentencing, including the victim impact statement, upon a party’s motion and for good cause. Previously, the court could only hear such information in camera if both the defense attorney and prosecutor made a joint motion on the matter.

In addition to these changes, the Act made amendments to numerous grant programs and federal statutes, as summarized in the chart below.

**Federal Debt Collection Fund**

Expands uses of the federal Debt Collection Fund, which consists of three percent of all civil debt collections by the Department of Justice, to process and track criminal debt collection (including restitution orders and the fines that make up the Victims of Crime Act (VOCA) Fund. Previously, that money could be used only to process and track civil debt collection. If funds remain, they will go toward paying for financial systems and debt-collection related personnel, and administrative and litigation expenses.

**Juvenile Justice**

Reauthorizes the nation’s juvenile justice programs. Consolidates several grant programs into a larger block grant, giving states greater flexibility in determining their spending priorities. Local and community delinquency prevention programs (formerly Title V grants) remain separate.

Reauthorizes and expands purpose areas of the Juvenile Accountability Incentive Block Grants (JAIBG) program. Allows grants to be used for “establishing and maintaining restorative justice programs,” defined as “[a]ny program that emphasizes the moral accountability of an offender toward the victim and the affected community and may include community reparations boards, restitution, ...and mediation between victim and offender.” Stresses graduated sanctions for juvenile offenders, to ensure not only flexibility for individual juvenile offenders but also appropriate consideration for the victims of
### Juvenile Justice (cont.)

Crime. Requires state or local governments applying for JAIBG funds to establish an advisory board to recommend a coordinated enforcement plan for the use of funds. The enforcement plan shall include a nonprofit victim advocacy organization, if appropriate, as well as other listed agencies.

### Law Enforcement Tributes

Authorizes $15 million over the next five years for the Attorney General to award matching grants of 50 percent for the cost of construction of tributes to law enforcement and public safety officers.

### Parole Commission

Extends the U.S. Parole Commission for an additional three years to supervise offenders, in particular those on supervised release in Washington, D.C. Directs the Attorney General to complete a study of whether the Parole Commission is the appropriate entity to administer supervised release for D.C. offenders.

### Penalties for Victim or Witness Tampering

Increases the maximum penalty for tampering with a victim, witness, or informant that involves the use of physical force, as well as an increase of the maximum penalty for forcible assaults, resistance, intimidation, or interference with a federal judge, federal law enforcement officer, or U.S. official.

### Restitution

Clarifies that restitution is a proper condition of supervised release (previous federal law was ambiguous on this point). Makes it clear that willful failure to make restitution is grounds for revocation or modification of supervised release.

### Rural Crime Prevention & Reduction Grants

Creates a new grant program, “Crime Free Rural States grants” to develop the capacity of rural states to assist local communities in the prevention and reduction of crime, violence, and substance abuse. Authorizes $30 million over three years for this purpose. Extends SCAAP (State Criminal Alien Assistance Program), which provides additional funding to those states housing significant numbers of criminal aliens within their corrections departments through fiscal year 2004.

### Study of Untested Rape Examination Kits

Directs the Attorney General to conduct a study of untested rape examination kits that currently exist nationwide, and to submit that study to Congress. Enables local governments to receive grants under the Paul Coverdell National Forensic Services Improvement Act of 2000 (Pub. L. 106-561). Authorizes the Attorney General to make discretionary grants to any state or locality after considering the state crime rate and existing crime lab resources. Requires states to report more information regarding their forensic science capabilities and the cases being accepted by the laboratory.

### Violence Against Women Grants

Enacts technical corrections to certain violence against women grant-awarding processes. Adds STOP grants to those formula grants for which an applicant has due process rights to notice of application status and for which an applicant may receive a hearing if the application for the formula grant is denied. Removes the only discretionary grant program, Grants to Encourage Arrests, from the list of grants which have such rights to clarify that inconsistency.
In this issue, *Pipeline* talks to Senator John Breaux (D-LA), Ranking Minority Member of the Senate Special Committee on Aging, about his recently introduced Elder Justice Act (S.333). The Elder Justice Act is the first comprehensive federal legislation to address elder abuse and crimes against seniors, and to guarantee protections for older Americans. [SEE SUMMARY, INSET ON PAGE 11]

**PIPELINE:** You have called the situation of America’s elderly victims of crime “un-American and unacceptable.” How widespread is the problem of elder victimization?

**BREAUX:** There is a clear lack of data on elder abuse, neglect and exploitation. The 1998 Incidence and Prevalence Study, conducted by the Administration on Aging and the National Center on Elder Abuse, estimated there were approximately 500,000 instances of elder abuse each year. Further, the study concluded that 84 percent of the incidents go unreported.

*Consumer Reports* conducted its own study, and included financial exploitation of the elderly and estimated as many as five million instances of elder abuse annually. The sad fact is that no one really knows. With 77 million baby boomers approaching retirement age, the problem of elder abuse is at a critical point and our institutions must be in a better position to detect, prevent, intervene, and prosecute.

**PIPELINE:** What prompted your personal interest in supporting elder victims of crime?

**BREAUX:** In the 107th Congress, as Chairman of the Special Committee on Aging and a senior member of the Finance Committee, we held numerous investigations and hearings to highlight various abuses against the elderly. Last year, our Committee held four hearings that examined a wide range of abuses, including physical, sexual, and financial abuse of the elderly, as well as neglect and abandonment.

Yet, the first hearing on elder abuse was held in the House of Representatives 23 years ago—in 1979. Since then, there have
been at least 20 hearings on elder abuse, and probably many more on financial abuse. Still there has been no comprehensive plan to combat this national disgrace. The Elder Justice Act is now the first comprehensive legislation to fully address elder abuse, neglect and exploitation.

**PIPELINE:** Why does the issue of elder victimization require a federal response?

**BREAUX:** The Elder Justice Act is designed to provide federal leadership and support to the states and local governments and other entities that are on the front lines combating elder abuse. What we have learned is our systems to deliver services are fragmented and would benefit from a national approach to this problem. Attorneys general and other law enforcement officials, and social service officials, have told us that elevating this problem to the national stage will help them better address the many complicated aspects of elder abuse and crimes against the elderly.

**PIPELINE:** The Elder Justice Act would create Offices of Elder Justice in both the Department of Health and Human Services and the Department of Justice. Why do you believe both offices are necessary?

**BREAUX:** We looked at various models to raise awareness about elder abuse, neglect and exploitation. Because elder abuse embodies both public health and law enforcement issues, we must establish offices within both departments and ask these departments to work closely together, so we can begin to form sound responses.

**PIPELINE:** How would the Elder Justice Act address financial exploitation of the elderly?

**BREAUX:** Financial exploitation of the elderly is a difficult crime to detect. Witnesses who have testified before the Committee have robbed and tricked the elderly out of many thousands of dollars. Many older Americans have been left destitute or in bankruptcy. Too often, local law enforcement is faced with few or no witnesses.

But numerous examples of successful investigations and prosecutions exist as well. The Elder Justice Act would provide training for law enforcement, prosecutors and judges about the most promising practices to address these crimes. In addition, it seeks to develop model laws to be shared with states on issues including banking laws, mandatory reporting, definitions, evidentiary rules and penalties. The bill requires FBI criminal background checks of all workers in nursing facilities. It also requires prompt reporting to one or more law enforcement entities of a reasonable suspicion of a crime in a long-term care facility. Currently, a crime committed in an institution is not always reported to law enforcement. A crime is a crime wherever it is committed.
PIPELINE: How will passage of the Elder Justice Act impact the ability of local victim service providers to respond to elderly victims of crime?

BREAUX: The Elder Justice Act seeks to improve the quality, quantity and accessibility of information. An Elder Justice Resource Center and Library will provide information for consumers, advocates, researchers, policy makers, providers, clinicians, regulators, and law enforcement, and prevent “reinventing the wheel.” A national data repository also will be developed to increase the knowledge base and collect data about elder abuse, neglect, and exploitation.

Given the lack of research, Centers of Excellence will enhance research, clinical practice, training, and dissemination of information relating to elder justice. Priorities include a national incidence and prevalence study, jump-starting intervention research, developing community strategies to make elders safer, and enhancing multi-disciplinary efforts.

Creating new forensic expertise, similar to that used to confront child abuse, will promote detection and increase expertise. New programs will train health professionals in both forensic pathology and geriatrics. The Act will study and establish “safe havens” for seniors who are not safe where they live, and develop programs focusing on the special needs of at-risk elders and older victims.

PIPELINE: Is there anything else you’d like our readers to know about the Elder Justice Act?

BREAUX: The Elder Justice Act provides the support that officials and stakeholders nationwide have shown us we sorely need. It is intended to jump-start the detection, prevention, intervention, and prosecution, to address this growing problem. From a societal perspective, elder justice means ensuring adequate public-private infrastructure and resources to prevent, detect, treat, understand, intervene in, and where appropriate, prosecute elder abuse, neglect, and exploitation. From an individual perspective, elder justice is the right of every older person to be free of abuse, neglect, and exploitation. The Elder Justice Act would promote both aspects of elder justice.

PIPELINE: What are the prospects for passage of the Elder Justice Act in the 108th Congress?

BREAUX: The prospects for passage of the Elder Justice Act in the 108th Congress are very good. The bill has eighteen cosponsors in the Senate with broad bipartisan support, and the numbers are growing. An Elder Justice Coalition has formed to support the legislation, and the bill has met with wide support among industry and government and advocates alike. Part of the success of the legislation has been the open process of collaboration with stakeholders to develop the legislation.
Summary: Select provisions of the Elder Justice Act

- Creates Elder Justice Offices within the Department of Justice (DOJ) and Department of Health and Human Services (HHS), which would be responsible for grant-making, training, technical assistance and research.

- Establishes a Center for the Prosecution of Elder Abuse, Neglect, and Exploitation to assist prosecutors with cases and enhance the role of community policing in protecting seniors from harm.

- Creates a public-private Elder Justice Coordinating Council to coordinate the activities of DOJ, HHS, and other relevant federal agencies, states, communities, and nonprofits regarding elder abuse, neglect, and exploitation.

- Sets up a national headquarters for Adult Protective Services (APS) within the Administration for Children and Families in the Department of Health and Human Services. Provides a dedicated funding stream for APS.

- Establishes a national Elder Justice Resource Center at the Administration on Aging to provide information and materials on laws, funding, statistics, publications, the justice system, and protective and health services. The Resource Center will also house a library of materials on training, technical assistance, and promising practices.

- Creates five “Centers of Excellence” to develop expertise, research, and clinical practices, training and dissemination of information on elder abuse, neglect, and exploitation. Makes a national incidence study a priority of the Centers.

- Supports enhanced and targeted victim services for at-risk elders, including the creation of “safe havens” and funding for legal advocacy and victim advocates.

- Calls for a study on and the development of model state laws and practices relating to elder abuse, neglect, and exploitation.

- Contains many provisions which improve the conditions in long-term care facilities, including requiring immediate reporting of crimes committed against long-term care residents and FBI background checks for all employees and contractors of federally-funded long-term care providers; establishing a Long-Term Care Consumer Clearinghouse; and providing grants to bolster recruitment and training of long-term care workers.

- Provides funding to develop forensic expertise of health professionals and the capacity to detect elder abuse.
In a recent National Center for Victims of Crime poll, the issue of protective orders for sexual assault victims ranked near the top of legislative priorities of state crime victim advocates and policymakers. Such orders have been used for some time to assist victims of domestic violence, and more recently stalking victims, in obtaining protection from unwanted harassment and contact by their abusers or stalkers. To date, however, only a handful of states have enacted civil or criminal protective orders for sexual assault victims who often have similar safety concerns. States are beginning to address the need to expand protections to victims of sexual assault.

**Civil Sexual Assault Protective Orders**

Several states have codified protections for sexual assault victims as civil protection orders. Such orders may prohibit an attacker from participating in a wide range of behaviors, including approaching the victim, contacting the victim directly or indirectly, or sexually assaulting the victim. Montana has taken a straightforward approach to civil sexual assault protective orders by including them in the same statute as all other protective orders. The statute specifically states that a victim of sexual assault or sexual intercourse without consent is eligible to file a petition for a protection order against the perpetrator of the offense regardless of the victim’s relationship to the perpetrator. While “sexual assault” and “sexual intercourse without consent” are defined according to criminal law, the statute stipulates that a victim’s eligibility for an order of protection is not dependant upon reporting the abuse, participating in the criminal justice process, or filing charges. Both Maryland and Oklahoma have similar statutes authorizing civil sexual assault protective orders.

Maine has taken a distinctive approach to providing civil protective orders for victims of serious sexual assault by employing its broad anti-harassment laws. By specifying that one instance of gross sexual assault constitutes harassment, Maine allows those who have been victims of the most grievous form of sexual assault to obtain a protection from harassment order. Despite the fact that the crimes constituting harassment are defined in terms of the criminal code, a conviction of gross sexual assault is not necessary in order to obtain a protection from harassment order.

**Criminal Sexual Assault Protection Orders**

Connecticut and Arkansas have provided for permanent criminal restraining orders following conviction for sexual offenses. In its criminal sentencing statute, Connecticut law states that in addition to being sentenced for particular sexual offenses, a judge may impose a standing criminal restraining order if it is in the interests of the victim and the public. Arkansas allows a court to issue a permanent no-contact order when a defendant charged with rape pleads guilty or no contest, or when the defendant has exhausted all avenues of appeal and remains convicted.

**Other Avenues for Relief**

In addition to the special sexual assault protective orders listed above, recent expansions of other protective order laws may encompass certain other sexual assault victims. For example, domestic violence is now frequently defined to include sexual assault, and thus domestic violence protective orders may be available to those sexually assaulted by spouses or ex-spouses. Domestic violence laws in many states have also been extended to include victims of dating violence, so those

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3 ME Rev Stat. § 4651.
4 Conn Gen. Stat. § 53a-40e.
5 Ark Code Ann. § 5-14-103.

*continued on page 14*
Victims of crime nationwide have specific rights to participate in the criminal justice system, including consulting with the prosecutor, attending proceedings, making a statement at release proceedings or sentencing, and requesting restitution. Those rights are rendered meaningless when victims must put their jobs at risk to exercise them. Victims may also be entitled to counseling and other support services to rebuild their lives following a crime, but may be unable to access those services if doing so means putting their job at risk.

Many of the crime victims bills of rights adopted by states in the 1980s encouraged prosecutors or victim/witness staff to attempt to intercede with an employer to protect the victim's employment status. Subsequently, states began to adopt laws to provide affirmative protection of victims' employment status while they participated in the criminal justice system.

Several states, including four this year, have taken action to protect the employment status of crime victims:

- **Colorado** enacted a law that requires employers to permit employees to take up to three working days of leave a year if the employee is a victim of domestic abuse, stalking, or sexual assault. The leave days must be used to: seek a civil restraining order; obtain medical or mental health counseling to address harm resulting from the crime for the victim or the victim's children; make the home secure or seek new housing to escape from the perpetrator; seek legal assistance to address crime-related issues; or attend or prepare for court proceedings arising from the crime. The law applies to employers with 50 or more employees. An employee may be required to exhaust all other leave before taking the leave authorized by this law. Violation gives rise to a civil action for damages.1

- **Connecticut** broadened its employment protection law, which previously protected only those employees who were responding to a subpoena to appear in court as a witness. The law now protects all employees attending a court proceeding or participating in a police investigation relating to a criminal case in which the employee is a victim. It also protects employees from being penalized because they are under the protection of a restraining order. Violation of the law constitutes criminal contempt, punishable by a fine or imprisonment, and also gives rise to a cause of action for damages.2

- **Pennsylvania** expanded its employment protection, previously limited to those attending court by reason of being a victim of or witness to a crime to those attending as a member of the victim’s family.3

- **Maine** law already required leave for employees who are victims of domestic violence, sexual assault, or stalking in order to prepare for and attend court proceedings, receive medical treatment, or obtain necessary crisis services. The law was expanded this year to also protect the employment of family members attending to medical treatment for a victim.4

2 PA 02-136, (Conn. 2002).
3 Act No. 84, (Penn. 2002).
4 Ch. 685 Me. 120th Leg., 2nd Reg. Sess. (Me. 2002).

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Victims of crime should not be subject to the additional hardship of losing their employment or facing employer sanctions in order to exercise their rights or obtain the services they need to recover from crime. While the new protections in Colorado, Connecticut, Maine and Pennsylvania, along with other advances for victims at the state level are encouraging, as yet, job security for crime victims is nonexistent at the federal level.

To extend these protections to the federal level, Senators Patty Murray (D-WA) and Charles Shumer (D-NY), together with the late Paul Wellstone (D-MN), introduced the Victims’ Economic Security and Safety Act (VESSA) to address a wide range of issues relative to victims and employment issues. S.1249 would allow victims of domestic violence, dating violence, sexual assault, and stalking to take unpaid leave to seek medical attention and counseling, attend legal proceedings, obtain victim services, and otherwise address the effects of their victimization. In addition, the bill would grant these victims the right to unemployment compensation if they must leave work as a result of their victimization; require that employees’ healthcare coverage be continued during the leave time; prohibit employer and insurance discrimination against employees because of their status as victims; and provide a tax credit to employers who implement workplace safety and education programs to fight violence against women. Representatives Carolyn Maloney (D-NY) and Lucille Roybal-Allard (D-CA) introduced a similar bill, H.R.2670, in the House of Representatives. While passage of VESSA would cover some of the most economically unstable victims, the National Center encourages Congress to pass legislation granting federal employment protection for all victims of crime.

sexually assaulted by other intimate partners may avail themselves of that protection. Additionally, several states have defined stalking to include behavior that puts one in fear of sexual assault, providing an avenue of recourse for victims who are stalked or repeatedly followed by their attacker after being sexually assaulted.

The National Center has more information about sexual assault protective orders, including links to state statutes, on our MembersOnly website at www.ncvc.org.
The Interstate Compact for Adult Offender Supervision

The new Interstate Compact for Adult Offender Supervision was ratified by 15 states and the District of Columbia in 2002, bringing the total number of ratifying states to 41 – 6 more than the 35 required for the Compact to take effect. The new Compact will provide an updated structure and rules for supervision of the estimated 250,000 probationers and parolees who cross state lines each year.\(^1\)

For the past 62 years, the Interstate Compact for the Supervision of Parolees and Probationers has governed the supervision of these offenders. This compact—entered into in 1937 and only two pages in length—was seriously outdated and lacked the legal power to carry out a number of essential activities. As a result, many offenders were allowed to move without notification to the receiving state and reside in a new community with little or no supervision. In addition, the older Compact predated most of the laws enacted to give victims even the most basic rights to be notified, present, and heard, and to receive restitution. Therefore, the document was silent on how to guarantee compliance with state victims’ rights laws now in effect.

In late 1997, the National Institute of Corrections conducted public hearings and surveyed criminal justice practitioners to fully understand concerns about the current practices for managing adult probationers and parolees moving from state to state. As a result, the Interstate Compact for Adult Offender Supervision, was drafted and unveiled in August 1999.

The new Compact allows for victim involvement in several ways, most notably by providing victims with both notice and an opportunity to be heard regarding offender transfer requests.

In addition, the national Interstate Commission, established as the joint oversight agency of the compacting states, includes a victim representative as a member and is delegated rule-making and enforcement authority under the language of the compact “to effectively and efficiently achieve the purposes of the compact.”\(^2\) Two of the Compact’s stated purposes are the protection of victims’ rights and ensuring an opportunity for input and timely notice to victims.\(^3\) The Compact also specifies ten subjects which must be addressed for the purpose of establishing rules within the first year of enactment, including notice to victims and providing victims an opportunity to be heard regarding offender transfer requests.\(^4\) The collection of restitution and fees from offenders is listed as a particular priority in the establishment of the Compact’s rules.

These rules, once established, are granted the same force and effect as statutory law and are binding in the participating states. Because the Compact takes precedence over conflicting state laws, the rules governing victim notification and input under the Compact will provide crime victims across the country with uniform rights relating to the interstate movement of offenders and a standardized enforcement mechanism.

Now that the minimum required number of states have acted to adopt the Compact, plans are underway to form the national Interstate Commission which will develop the new compact’s structure. The National Institute for Corrections (NIC) is currently in the process of surveying appropriate agencies in each state to collect data on the movement of offenders, current staffing levels, and technology used by Compact offices in order to facilitate some of the

\(^1\) Council of State Governments, Interstate Compact for Adult Offender Supervision Information Kit, “Fourteen Frequently Asked Questions Concerning the Interstate Compact for Adult Offender Supervision,” p. 1. This number includes both offenders being supervised and those issued travel permits.

\(^2\) Arts. IV and VII, Revised Draft: Interstate Compact for Adult Offender Supervision, August, 1999.

\(^3\) Art. I, Revised Draft: Interstate Compact for Adult Offender Supervision, August, 1999.

Commission’s mandated duties under the Compact. The first meeting of the Interstate Commission took place on November 18-20, 2002, in Scottsdale, Arizona. At that meeting, the Commission adopted by-laws and an operating budget, elected officers, and conducted other opening business.

The National Center supports the Interstate Compact for Adult Offender Supervision, and encourages the remaining states to adopt it so that victims in all states may be afforded effective rights in the offender transfer process.

A copy of the Compact and related documents can be accessed via the Internet at http://www.nicic.org/services/special/compact-adult/default.htm.


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The Interstate Compact for Adult Offender Supervision

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Victim Compensation for Relocation Expenses

Relocation is often an essential part of a crime victim’s recovery. Victims of domestic violence who want to escape their abusers, sexual assault victims who were attacked in their homes and no longer feel safe, victims who are subject to intimidation by the defendant or others, may need to relocate for their safety or their mental well-being.

Pennsylvania recently joined the list of state crime victim compensation programs that will pay for a crime victim’s relocation. Under Pennsylvania’s newly revised compensation law, victims of violent crime may be reimbursed for “expenses resulting from the temporary or permanent relocation of a direct victim and the individuals residing in the household of the direct victim due to the incident forming the basis of the victim’s claim, when there is an immediate need to protect the safety and health of the victim and individuals residing in the household, as verified by a medical provider, human services provider or law enforcement.”

Seven states; plus the District of Columbia, provide by statute for the payment of violent crime victim expenses related to relocation. The expenses are often defined in the law and may include moving costs, storage fees, first month’s rent, security deposits, utility fees, and similar expenses. Relocation benefits are usually capped at somewhere between $1,000 to $3,000, and often have a lifetime cap as well. Florida, Texas, and the District of Columbia limit the benefit to victims of domestic abuse. [California does not limit the benefit to domestic violence victims, but does require that such victims and victims of sexual assault who know their perpetrator agree not to inform their offender of the new address.]

Minnesota will pay certain relocation expenses “if the move is necessary due to reasonable fear of danger resulting from the crime.” California law authorizes relocation expenses “if determined by law enforcement to be necessary to the safety of the victim or by a mental health provider to be necessary to the emotional well being of the victim.” Tennessee will pay relocation expenses “if the victim moves as a result of an assault that occurred at the victim’s primary residence.” Under Delaware law, crime victims’ compensation will pay “any other expenses actually and necessarily incurred as a result of the personal injury or death” which may include temporary housing and moving expenses. In addition, Delaware will cover other specified expenses, including limited costs for used furniture for victims of domestic violence who are leaving transitional housing.

In addition to those states that provide for relocation reimbursement by statute, others, including Alabama, Hawaii, Kansas, New Jersey, New York, Ohio, Oklahoma, Utah, Vermont and Wyoming, will cover some relocation expenses under program policy. Wyoming may award relocation expenses on an emergency basis, if there is a direct threat to the victim which is verified by law enforcement. Kansas, too, limits payment at the recommendation of law enforcement.

The recent change in the VOCA Fund formula, making more funding available to states for crime victim compensation, should enable even more states to compensate victims for relocation expenses. [See Federal Victim Assistance Funding Faces 8 Percent Cut, page 1].

Kansas policy allows for relocation reimbursement at the request of law enforcement.
The Legacy of Paul and Sheila Wellstone

The National Center for Victims of Crime mourns the tragic loss of two great friends of crime victims, Senator Paul Wellstone and his wife, Sheila Wellstone, who died in an airplane crash on October 25, 2002. Both Paul and Sheila Wellstone fought tirelessly to eradicate violence against women and children and championed the cause of the poor and un-represented. They were often called the “voice of the voiceless.”

Violence Against Women
Senator Wellstone was known to work tirelessly across the Senate’s political and ideological lines to pass legislation on an array of issues close to his heart, including domestic violence. In 1994, Senator Wellstone was key to the passage of the Violence Against Women Act (VAWA)—landmark, bi-partisan legislation that has provided much-needed services and protections for victims of domestic violence, sexual assault, and stalking nationwide. Sheila Wellstone was widely acknowledged to be the driving force behind many of Senator Wellstone’s proposals, including the federal law that prohibits batterers under a domestic violence restraining order from possessing a firearm, which, just days before the Wellstones’ deaths, enabled law enforcement to arrest and hold John Muhammad, one of the suspected Washington, D.C. area snipers.

Striving to translate his knowledge of the link between poverty and abuse into a force for social change, Senator Wellstone fought to ensure that states could temporarily waive work requirements for women on welfare who were unable to work due to the effects of domestic violence. He also authored and introduced the 2002 Victims’ Economic Security and Safety Act (VESSA) to protect the employment of victims of sexual assault, domestic abuse, dating violence, and stalking. The bill proposed granting these victims the right to take unpaid leave to seek medical attention and counseling, attend legal proceedings, obtain victim services, and otherwise address the effects of their victimization. It also recognized that some victims must ultimately leave work due to their victimization and ensures that they are afforded certain protections and rights. VESSA would allow these victims to receive unemployment compensation if they must leave work as a result of their victimization and require that employees’ healthcare coverage be continued during the leave time. A companion bill was introduced in the House of Representatives by Rep. Lucille Roybal-Allard (D-CA).

Children Who Witness Domestic Violence
Paul and Sheila Wellstone were also concerned about the impact that domestic violence has on children. Sheila often brought attention to the problem in her speeches and worked with researchers to obtain information that could inform federal policymaking on the issue. In 1999, Senator Wellstone authored the Children Who Witness Domestic Violence Act. The bill provided for multi-system interventions for children who are exposed to domestic violence, sexual assault, and stalking. Wellstone’s proposal acknowledged the crucial role that schools play in the response to children who have
In the face of this devastating situation, I call on my colleagues to say to these child witnesses around the country, that they will not suffer in silence, for that is what their abusers want them to do. Their cries will not be muffled behind closed doors and by the fear inflicted by abusive parents.

We need to provide these children with a way out of violence and a way to deal with the pain of violence.

This bill represents a modest step to address this devastating problem. I urge my colleagues, in the names of all of these children, to support this critical legislation.

_Fighting the Good Fight_

As advocates across the country look back on the Wellstones’ legacy, we are inspired to never waiver in our commitment to the work that we do. Paul and Sheila Wellstone’s unflagging commitment to justice for victims of violence provided energy to all who fought along side them. We will sorely miss their matchless leadership and unbridled enthusiasm for “fighting the good fight.”

The National Center would also like to express our condolences for the loss of their daughter Marcia Wellstone, campaign workers Tom Lapic, Mary McEvoy, and Will McLaughlin, and pilots Michael Guess and Richard Conry. Our thoughts and prayers are with all of their loved ones.