

Violence Against Women Act Renewed



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Early last month, Congress renewed and extended federal legislation known as the “Violence Against Women Act” or “VAWA.” The [VAWA](#) was originally enacted in 1994, and at that time, its objective was as clear as its name – to prevent and address domestic violence, primarily against women. The VAWA reformed how the law grapples with domestic violence. But the VAWA’s enactment has perhaps transformed how we look at domestic violence and the victims who struggle with it at home.

The original legislation that made up the VAWA ensured free access to court protective orders regardless of income level, established the National Domestic Violence Help-Line, and was the legislative source for fiercely contested “rape shield laws” that prohibit evidence relating to a victim’s past sexual history. The VAWA also required training among civil servants and medical personnel to help encourage victims of domestic violence to identify themselves and reach out for help. We likely do not notice how the VAWA has kept us mindful of the dangers of

violence in the family. After all, how often does one reflect on anti-stalking laws? Yet, with any trip to an urgent care, emergency room, or radiologist's lab a medical provider will ask: "Are you involved in a relationship where you don't feel safe?" That's the VAWA. And while the VAWA's name may seem to have everything to do with women, the act's recent reenactment has a much more expansive view - and reach.

Under the original enactment, some Native American tribal members were previously left out in the cold following a 1978 Supreme Court ruling in the case of *Oliphant v. Suquamish Tribe*, 435 U.S. 191 (1978), which limited a tribe's jurisdiction over non-Indian abusers. Native American tribes will now have greater authority to prosecute non-Indian abusers under the reenacted VAWA, based on a special jurisdictional provision to the law. However, a tribe's jurisdiction to address the victimization of a tribal member is restricted only to those non-Indians with significant ties to the prosecuting tribe, those who reside in the Indian country of the prosecuting tribe, or are employed in the Indian country of the prosecuting tribe, or are either the spouse or intimate partner of a member of the prosecuting tribe. Although some critics question whether limited jurisdiction over non-Indian defendants will withstand Constitutional muster, many in support of the VAWA's reenactment are hopeful that the ability of tribes to prosecute non-Indian offenders in some instances will reduce the nearly [40-70% of rape potential prosecutions](#) against non-Indians that are declined by federal prosecutors.

The VAWA reenactment is also aimed at targeting cyber-bullying and other instances of abuse that were not the focus of the VAWA originally. Protections for men and members of the "LGBT" (Lesbian Gay Bisexual and Transgender) community who are struggling with domestic violence now enjoy greater recognition under the updated law. These changes to the VAWA send a clear message that domestic violence is not a "women's issue" - it's a family one because anyone can be a victim of domestic violence.

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