

1 **TITLE II—LIMITING THE EF-**  
2 **FECTS OF VIOLENCE ON**  
3 **CHILDREN**

4 **SEC. 201. FINDINGS.**

5 (1) Witnessing domestic violence has a dev-  
6 astating impact on children, placing them at high  
7 risk for anxiety, depression, substance abuse and  
8 suicide. These children may exhibit more aggressive,  
9 antisocial, fearful, and inhibited behaviors.

10 (2) Children exposed to domestic violence often  
11 have problems in school.

12 (3) Domestic violence is strongly correlated  
13 with child abuse. Studies have found that between  
14 50 and 70 percent of men who abuse their female  
15 partners also abuse their children.

16 (4) Boys who witness parental abuse during  
17 their childhood are at a higher risk of being phys-  
18 ically aggressive in dating and marital relationships.

19 (5) Girls are 3 times as likely as boys to be vic-  
20 tims of sexual abuse.

21 (6) Children often fail to report child sexual  
22 abuse because of the fear that disclosure will bring  
23 worse consequences than being victimized again, in-  
24 cluding consequences from the family, feeling guilty  
25 for consequences to the perpetrator, and fear of sub-

1       sequent retaliation from the perpetrator. Victims  
2       may also feel that the abuse is their fault.

3           (7) Women are at an increased risk of harm  
4       after separation from an abusive partner. Up to 75  
5       percent of all domestic assaults reported to law en-  
6       forcement agencies were inflicted after the separa-  
7       tion of the couple.

8           (8) Children are also at increased risk of harm  
9       during separation. In 1 study, 34 percent of women  
10      in shelters and callers to hotlines reported threats of  
11      kidnapping, 11 percent reported that the batterer  
12      had kidnapped the child for some period, and 21  
13      percent reported that threats of kidnapping forced  
14      the victim to return to the batterer.

15          (9) According to a 1996 report by the American  
16      Psychological Association (APA), which Congress  
17      views as authoritative on matters of domestic vio-  
18      lence and child custody and visitation determina-  
19      tions, custody and visitation disputes are more fre-  
20      quent when there is a history of domestic violence.  
21      Further, fathers who batter mothers are twice as  
22      likely to seek sole custody of their children and they  
23      may misuse the legal system as a forum for continu-  
24      ing abuse through harassing and retaliatory legal ac-  
25      tions.

1           (10) The need for supervised visitation centers  
2 far exceeds the number of available programs, re-  
3 sulting in courts ordering unsupervised visitation  
4 and endangering parents and children.

5           (11) One-third of high school and college age  
6 students experience violence with an intimate part-  
7 ner.

8           (12) A 1992 study concluded that being abused  
9 or neglected in childhood increases the likelihood of  
10 arrest for girls and women by 77 percent.

11           (13) Although courts should diligently protect  
12 the interests of both parents in frequent and con-  
13 tinuing contact with their children, in the case where  
14 1 parent has committed domestic violence against  
15 the other parent, protection of the other parent and  
16 the children is a vital consideration that should take  
17 precedence.

18           (14) Every State has legislation or judicial deci-  
19 sions that base its custody determinations on what  
20 is in the best interests of the child, and the vast ma-  
21 jority of States include considerations of domestic vi-  
22 olence as a factor in determining the best interests  
23 of the child.

24           (15) The National Council of Juvenile and  
25 Family Court Judges includes the option of super-

1       vised visitation centers in their Model Code on Do-  
2       mestic and Family Violence.

3           (16) Despite the perception that mothers al-  
4       ways win custody cases, studies show that fathers  
5       who contest custody win sole or joint custody in 40  
6       to 70 percent of cases.

7           (17) According to the APA, there is no reliable  
8       empirical data to support the so-called phenomenon  
9       of “parental alienation syndrome,” although courts  
10      and custody evaluators frequently use such terms to  
11      discount children’s reasonable fear and anger toward  
12      a violent parent. This “syndrome” and similar ones  
13      are used almost exclusively against women.

14          (18) The documented rate of any child abuse  
15      allegations in custody cases is approximately 2 per-  
16      cent, and there is no evidence that false accusations  
17      are more common in the context of custody litiga-  
18      tion.

19          (19) Congress never intended that the Parental  
20      Kidnapping Prevention Act be used to prohibit an  
21      abused or protective parent from protecting them-  
22      selves or their child by relocation to a place of safe-  
23      ty.

24          (20) When domestic violence is or has been  
25      present in the relationship, shared parenting ar-

1       rangements, couples counseling, or mediation ar-  
2       rangements only exacerbate the difficulties of the  
3       children and give the abusive parent more tools to  
4       victimize members of the family.

5                   **Subtitle A—Safe Havens for**  
6                   **Children**

7   **SEC. 211. PURPOSES.**

8       The purposes of section 212 are—

9               (1) to provide secure locations for visitation and  
10       visitation exchange;

11              (2) to protect children from the trauma of wit-  
12       nessing domestic violence, or experiencing abduction,  
13       injury, or death during parent and child visitation  
14       and/or visitation exchanges;

15              (3) to protect victims of domestic violence from  
16       experiencing further violence, abuse, and threats  
17       during child visitation and/or visitation exchanges;

18              (4) to protect children from the trauma of expe-  
19       riencing sexual assault or other forms of physical as-  
20       sault and abuse during parent and child visitation  
21       and/or visitation exchanges; and

22              (5) to provide an ongoing safe haven for par-  
23       ents and children during visitation or visitation ex-  
24       changes to promote continuity and stability.

1 **SEC. 212. GRANTS TO PROVIDE FOR SUPERVISED VISITA-**  
2 **TION CENTERS.**

3 (a) GRANTS.—The Attorney General is authorized to  
4 award grants to public or private nonprofit nongovern-  
5 mental entities, including tribally chartered organizations  
6 and nonprofit organizations operating within the bound-  
7 aries of an Indian reservation whose governing body re-  
8 flects the populations served, to assist such entities in es-  
9 tablishing and operating supervised visitation centers for  
10 the purposes of facilitating supervised visitation and visi-  
11 tation exchange. At least 50 percent of all grants awarded  
12 shall be for contracts and cooperative agreements with  
13 public or private nonprofit, nongovernmental entities, in-  
14 cluding entities receiving court referrals.

15 (b) CONSIDERATIONS.—In awarding such grants,  
16 contracts, and cooperative agreements under paragraph  
17 (1), the Attorney General shall take into account—

18 (1) the number of families to be served by the  
19 proposed visitation center to be established under  
20 the grant, contract, or agreement;

21 (2) the extent to which supervised visitation  
22 centers serve underserved populations as that term  
23 is defined in section 2003(7) of the Omnibus Crime  
24 Control and Safe Streets Act of 1968 (42 U.S.C.  
25 3796gg-2(7));

1           (3) the extent to which the applicant dem-  
2           onstrates cooperation and collaboration with non-  
3           profit, nongovernmental entities in the local commu-  
4           nity served, including the State domestic violence  
5           and sexual assault coalitions, local shelters and pro-  
6           grams for domestic violence victims, including pro-  
7           grams providing legal assistance to domestic violence  
8           victims and rape crisis centers;

9           (4) the extent to which the applicant dem-  
10          onstrates coordination and collaboration with State  
11          and local court systems, including mechanisms for  
12          communication and referral; and

13          (5) the extent to which the applicant dem-  
14          onstrates implementation of domestic violence and  
15          sexual assault training for all employees.

16          (c) USE OF FUNDS.—

17               (1) IN GENERAL.—Amounts provided under a  
18               grant, contract, or cooperative agreement awarded  
19               under this subsection shall be used to establish su-  
20               pervised visitation centers and for the purposes de-  
21               scribed in section 1(b). In using such amounts,  
22               grantees and persons awarded a contract or coopera-  
23               tive agreement shall target the economically dis-  
24               advantaged and those individuals who could not oth-  
25               erwise afford such visitation services. Individuals

1 shall be permitted to use the services provided by  
2 the center on a sliding fee basis. For purposes of de-  
3 termining qualification for sliding scale fees, only the  
4 individual income will be considered and no spousal  
5 or household income will be counted.

6 (2) REGULATIONS AND APPLICANT REQUIRE-  
7 MENTS.—The Attorney General shall award grants,  
8 contracts, and cooperative agreements under this  
9 section in accordance with such regulations as the  
10 Attorney General may promulgate. The regulations  
11 shall establish a multi-year grant process. The At-  
12 torney General shall give priority in awarding  
13 grants, contracts, and cooperative agreements under  
14 this title to entities in States that consider domestic  
15 violence in making a custody decision. An applicant  
16 awarded such a grant, contract, or cooperative  
17 agreement shall—

18 (A) for applicants under section 201(b)(1)  
19 or (2), (i) demonstrate recognized expertise in  
20 the area of domestic violence and a record of  
21 high quality service to victims of domestic vio-  
22 lence; and

23 (ii) demonstrate through a memorandum  
24 of understanding collaboration with and support  
25 of the State domestic violence coalition and

1 local domestic violence shelter or program in  
2 the locality in which the supervised visitation  
3 center will be operated;

4 (B) for applicants under section 201(b)(3),  
5 (i) demonstrate recognized expertise in the area  
6 of child sexual assault and abuse and a record  
7 of high quality service to victims of sexual as-  
8 sault; and

9 (ii) demonstrate through a memorandum  
10 of understanding collaboration with and support  
11 of the State sexual assault coalition and local  
12 rape crisis center or sexual assault program in  
13 the locality where the supervised visitation cen-  
14 ter will be operated;

15 (C) provide supervised visitation and visi-  
16 tation exchange services over the duration of a  
17 court order to promote continuity and stability;

18 (D) demonstrate that adequate security  
19 measures, including adequate facilities, proce-  
20 dures and personnel capable of preventing vio-  
21 lence, are in place for the operation of super-  
22 vised visitation; and

23 (E) describe in detail the standards by  
24 which the supervised visitation center will oper-  
25 ate.

1 (d) REPORTING.—Not later than 60 days after the  
2 end of each fiscal year, the Attorney General shall report  
3 to Congress information concerning—

4 (A) the number of individuals served and  
5 the number of individuals turned away from  
6 services categorized by State, the number of in-  
7 dividuals from underserved populations (as such  
8 term is defined in section 2003(7) of the Omni-  
9 bus Crime Control and Safe Streets Act of  
10 1968 (42 U.S.C. 3796gg-2(7))) served and  
11 turned away from services, and the type of pre-  
12 senting problems that underlie the need for su-  
13 pervised visitation or visitation exchange, such  
14 as domestic violence, child sexual abuse, emo-  
15 tional abuse or other physical abuse, or a com-  
16 bination of such factors;

17 (B) the numbers of supervised visitations  
18 or visitation exchanges ordered during custody  
19 determinations under a separation or divorce  
20 decree, under a protection order, through child  
21 protection services, through other social services  
22 agencies or by any other order of a civil, crimi-  
23 nal, juvenile, or family court;

24 (C) the process by which children or  
25 abused partners are protected during visita-

1 tions, temporary custody transfers and other  
2 activities for which the supervised visitation  
3 centers are created;

4 (D) safety and security problems occurring  
5 during the reporting period during supervised  
6 visitations or at visitation centers including the  
7 number of parental abduction cases;

8 (E) the number of parental abduction  
9 cases in a judicial district using supervised visi-  
10 tation services, both as identified in criminal  
11 prosecution and custody violations;

12 (F) program standards across the country  
13 that are in place for operating a supervised visi-  
14 tation center; and

15 (G) any other appropriate information des-  
16 igned in regulations promulgated by the Sec-  
17 retary.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) IN GENERAL.—For the purpose of awarding  
20 grants, contracts, and cooperative agreements under  
21 this section, there are authorized to be appropriated  
22 \$75,000,000 for fiscal year 1999, \$85,000,000 for  
23 fiscal year 2000, \$95,000,000 for fiscal year 2001,  
24 \$105,000,000 for fiscal year 2002, and  
25 \$115,000,000 for fiscal year 2003.



1       ration with experts on violence against women and  
2       girls from the educational, legal, cultural com-  
3       petence, youth and victim advocacy fields, such as  
4       battered women's shelters and State domestic vio-  
5       lence coalitions, State sexual assault coalitions and  
6       rape crisis centers and community-based youth orga-  
7       nizations. Priority shall be given to initiatives that  
8       address particularly the needs of underserved com-  
9       munities that may be recipients of the curricula and  
10      materials and training.

11           (2) The Secretary shall disseminate any exist-  
12      ing Department of Education policy guidance re-  
13      garding preventing and remedying violence against  
14      women in schools.

15           (3) The Secretary shall study and report to  
16      Congress recommendations regarding policies for  
17      primary, middle, and secondary schools in screening  
18      and referring children for services when children  
19      may be experiencing the effects of domestic violence  
20      or sexual assault. The study shall consider victim  
21      safety and confidentiality as significant factors in  
22      any policy recommendations.

23           (4) The Secretary shall study and report to  
24      Congress the link between the victimization of girls  
25      and their perpetration of crimes. This study will ex-

1 amine the nature of the link, types of crimes in  
2 which girls who are victims of domestic violence and  
3 sexual assault engage, and the short- and long-term  
4 effect of girls' violent victimization. In addition, the  
5 report will explore the extent to which local, State,  
6 and Federal policies that govern social welfare,  
7 health education, and juvenile justice systems ad-  
8 dress the needs of girls as victims of domestic vio-  
9 lence or sexual assault.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
11 authorized to be appropriated to carry out this section  
12 \$10,000,000 for each of fiscal years 1999, 2000, 2002,  
13 and 2003.

## 14 **Subtitle C—Family Safety**

### 15 **SEC. 231. SHORT TITLE.**

16 This subtitle may be cited as the “Family Safety  
17 Act”.

### 18 **SEC. 232. FINDINGS AND PURPOSES.**

19 (a) FINDINGS.—Section 7(a) of the Parental Kidnap-  
20 ing Prevention Act of 1980 (94 Stat. 3568; 42 U.S.C.  
21 1305 note) is amended—

22 (1) by striking “and” at the end of paragraph  
23 (3);

24 (2) by striking the period at the end of para-  
25 graph (4) and inserting a semicolon; and

1           (3) by inserting after paragraph (4) the follow-  
2           ing new paragraphs:

3           “(5) existing Federal and State laws are inad-  
4           equate to protect parents from domestic violence and  
5           to protect children from sexual assault and may  
6           punish them when they seek to protect themselves;  
7           and

8           “(6) failures of State judicial and child protec-  
9           tion systems may result in the inappropriate place-  
10          ment of children in the custody of abusive parents  
11          or punishment of nonabusing parents who attempt  
12          to protect themselves or their children.”.

13          (b) CONCLUSION.—Section 7(b) of such Act is  
14          amended by inserting “to establish standards to prevent  
15          children from being returned to abusive parents,” after  
16          “with such disputes,”.

17          (c) PURPOSES.—Section 7(c) of such Act is amend-  
18          ed—

19                 (1) by redesignating paragraphs (3) through  
20                 (6) as paragraphs (5) through (8), respectively;

21                 (2) by inserting after paragraph (2) the follow-  
22                 ing:

23                 “(3) promote cooperation between State and  
24                 tribal courts to protect parents and children from an

1 incident or pattern of domestic violence or sexual as-  
2 sault;

3 “(4) promote realistic and protective standards  
4 for interstate relocation when parents dispute cus-  
5 tody, particularly in cases where there is domestic  
6 violence or sexual assault;”;

7 (3) in paragraph (7) (as so redesignated), by  
8 inserting before the semicolon at the end the follow-  
9 ing: “, consistent with not endangering or inappro-  
10 priately punishing parents who are victims of domes-  
11 tic violence or children who are victims of sexual as-  
12 sault”; and

13 (4) in paragraph (8) (as so redesignated), by  
14 inserting before the period at the end the following:  
15 “or to abuse the child or exert coercive control over  
16 the other parent, except when the removal is justifi-  
17 able in an attempt to protect the parent or any child  
18 in the parent’s care”.

19 **SEC. 233. DEFENSE TO CRIMINAL CUSTODIAL INTER-**  
20 **ERENCE OR PARENTAL ABDUCTION**  
21 **CHARGE OR CLAIM.**

22 Section 1073 of title 18, United States Code, is  
23 amended by striking “Whoever moves” and inserting “(a)  
24 Whoever moves” and by adding at the end the following:

1           “(b) For any charge of parental abduction, of custo-  
2 dial interference, or of felony criminal contempt of court  
3 related to an underlying child custody or visitation deter-  
4 mination, that would otherwise provide a basis for pros-  
5 ecution under this section, it shall be a defense to such  
6 prosecution that the individual against whom this section  
7 is invoked—

8           “(1) acted pursuant to the provisions of a court  
9 order valid when and where issued—

10           “(A) which granted the defendant legal  
11 custody or visitation rights;

12           “(B) which was obtained in compliance  
13 with section 1738A of title 28;

14           “(C) which is not inconsistent with such  
15 section or with the Uniform Child Custody Ju-  
16 risdiction Enforcement Act as promulgated by  
17 the Uniform Law Commissioners; and

18           “(D) which was in effect at the time the  
19 defendant left the State;

20           “(2) was fleeing an incident or pattern of do-  
21 mestic violence or sexual assault of the child;

22           “(3) would otherwise have a defense under the  
23 terms of the International Parental Kidnapping Pre-  
24 vention Act (18 U.S.C. 1204).

1           “(c) The Attorney General shall issue regulations to  
2 assist the United States Attorneys and the Federal Bu-  
3 reau of Investigation in determining when to decline to  
4 initiate or to terminate an investigation or prosecution  
5 under subsection (b) due to the potential availability of  
6 any defense.”.

7   **SEC. 234. FULL FAITH AND CREDIT GIVEN TO CHILD CUS-**  
8                           **TODY DETERMINATIONS.**

9           (a) SECTION INTENT.—Section 1738A(a) of title 28,  
10 United States Code, is amended by adding at the end the  
11 following: “This section is intended to preempt any incon-  
12 sistent State law and to apply to every proceeding in the  
13 United States or its territories that is not governed by  
14 inconsistent aspects of any treaty to which the United  
15 States Government is a signatory or has ratified that in-  
16 volves custody and visitation concerning a minor child.  
17 Any provisions of a protection order regarding the custody  
18 and visitation of a minor child, whether consensual or not,  
19 otherwise consistent with section 2265 of title 18 and with  
20 this section shall be given full faith and credit by the  
21 courts of any State where the party who sought the order  
22 seeks enforcement.”.

23           (b) DEFINITIONS.—Section 1738A(b) of such title is  
24 amended—

1           (1) by inserting after paragraph (3) the follow-  
2           ing:

3           “(4) ‘domestic violence’ includes acts or threats  
4           of violence, not including acts of self defense, com-  
5           mitted by a current or former spouse of the victim,  
6           by a person with whom the victim shares a child in  
7           common, by a person who is cohabitating with or  
8           has cohabitated with the victim, by a person who is  
9           or has been in a continuing social relationship of a  
10          romantic or intimate nature with the victim, by a  
11          person similarly situated to a spouse of the victim  
12          under the domestic or family violence laws of the ju-  
13          risdiction, or by any other person against a victim  
14          who is protected from that person’s acts under the  
15          domestic or family violence laws of the jurisdiction;

16          “(5) ‘sexual assault’ means any conduct pro-  
17          scribed by chapter 109A of title 18, United States  
18          Code, whether or not the conduct occurs in the spe-  
19          cial maritime and territorial jurisdiction of the Unit-  
20          ed States or in a Federal prison and includes both  
21          assaults committed by offenders who are strangers  
22          to the victim and assaults committed by offenders  
23          who are known to the victim or related by blood or  
24          marriage to the victim;”;

1           (2) by redesignating paragraphs (4), (5), and  
2           (6) as paragraphs (7), (8), and (9), respectively;

3           (3) by redesignating paragraph (7) as para-  
4           graph (10) and by striking “and” after the semi-  
5           colon;

6           (4) by inserting after paragraph (9) (as so re-  
7           designated) the following:

8           “(11) ‘predominant aggressor’ means the indi-  
9           vidual who has been determined to be the principal  
10          perpetrator of violence, by factors including—

11                   “(A) history of domestic violence;

12                   “(B) relative severity of the injuries in-  
13                   flicted on each person;

14                   “(C) the likelihood of future injury to each  
15                   person;

16                   “(D) whether one of the persons acted in  
17                   self-defense; and/or

18                   “(E) the degree to which one of the per-  
19                   sons has acted with more deliberate intent to  
20                   control, isolate, intimidate, emotionally demean,  
21                   or cause severe pain or injury, or fear of harm  
22                   to the other or a third person”; and

23           (5) by redesignating paragraph (8) as para-  
24           graph (12).

1 (c) CONDITION FOR CUSTODY DETERMINATION.—

2 Section 1738A(c)(2)(C) of such title is amended—

3 (1) by striking “he” and inserting “the child, or  
4 a sibling or parent of the child,”; and

5 (2) by inserting “, including acts of domestic vi-  
6 olence by the other parent” after “abuse”.

7 (d) JURISDICTION.—Section 1738A(d) of such title  
8 is amended by inserting before the period at the end the  
9 following: “, except that after 2 years have passed while  
10 a child is living in another State after relocation consistent  
11 with a court order or due to domestic violence or sexual  
12 assault of the child, the court of the original State shall  
13 decline jurisdiction provided that the courts of the new  
14 State would have personal jurisdiction over the other par-  
15 ent under that State’s law”.

16 (e) CHILD CUSTODY DETERMINATIONS.—Section  
17 1738A of such title is amended by adding at the end the  
18 following:

19 “(h) A court may decline to exercise jurisdiction on  
20 behalf of a parent who has engaged in domestic violence  
21 as a predominant aggressor, if a court of another State  
22 has emergency jurisdiction under subsection (c)(2)(C)(ii).  
23 A court may decline to exercise jurisdiction on behalf of  
24 a parent who has wrongfully taken the child from a State  
25 without justification, or engaged in similar unjustifiable

1 conduct, unless no other State would have jurisdiction  
2 under any provision of subsection (c).

3 **Subtitle D—Domestic Violence and**  
4 **Children**

5 **SEC. 241. CHILD CUSTODY, CHILD ABUSE, AND VICTIMS OF**  
6 **DOMESTIC VIOLENCE.**

7 It is the sense of Congress that—

8 (1) for purposes of determining child custody, it  
9 is in the best interest of children to have a presump-  
10 tion that children should have their main physical  
11 residence with their primary caretaker parent unless  
12 that parent is unfit;

13 (2) for purposes of determining child custody, it  
14 is not in the best interest of children to—

15 (A) force parents to share custody over the  
16 objection of one or both parents when there is  
17 a history of domestic violence;

18 (B) punish abused or protective parents  
19 who protect themselves or their children;

20 (C) presume that allegations of domestic  
21 violence or child sexual assault are likely to be  
22 made falsely or for tactical advantage during  
23 custody and divorce proceedings; and

1           (D) make “friendly parent” provisions a  
2           factor when there is abuse by one parent  
3           against the other or a child;

4           (3) child abuse and child sexual abuse allega-  
5           tions should be fully and impartially investigated re-  
6           gardless of when they are raised or whether the child  
7           has withdrawn the allegation;

8           (4) States should be far more protective of vic-  
9           tims of domestic violence and sexual assault in cus-  
10          tody and visitation determinations and not order me-  
11          diation, couples counseling, shared custody, mutual  
12          orders of protection, unsupervised visitation, or  
13          other measures when they may endanger the other  
14          parent or the child; and

15          (5) States should provide training in domestic  
16          violence and sexual assault, as they impact custody,  
17          child support and visitation determinations, to all  
18          professionals who interact with children and parents  
19          (including judges, attorneys, guardians ad litem and  
20          other individuals appointed to represent children,  
21          therapists, and mental health professionals, custody  
22          evaluators, child protective services personnel, and  
23          court appointed special advocates).

1                   **Subtitle E—Child Abuse**  
2                   **Accountability**

3 **SEC. 251. SHORT TITLE.**

4           This subtitle may be cited as the “Child Abuse Ac-  
5 countability Act”.

6 **SEC. 252. AMENDMENTS TO TITLE I OF THE EMPLOYEE RE-**  
7                   **TIREMENT INCOME SECURITY ACT OF 1974.**

8           (a) CREATION OR ASSIGNMENT OF RIGHTS TO BENE-  
9 FITS UNDER QUALIFIED CHILD ABUSE ORDERS.—Sec-  
10 tion 206(d)(3)(A) of the Employee Retirement Income Se-  
11 curity Act of 1974 (29 U.S.C. 1056(d)(3)(A)) is amend-  
12 ed—

13                   (1) by inserting “or a child abuse order” after  
14           “a domestic relations order”;

15                   (2) by inserting “or a qualified child abuse  
16           order” after “a qualified domestic relations order”;  
17           and

18                   (3) by inserting “or any qualified child abuse  
19           order” after “any qualified domestic relations  
20           order”.

21           (b) QUALIFIED CHILD ABUSE ORDERS.—Section  
22 206(d)(3)(B) of such Act (29 U.S.C. 1056(d)(3)(B)) is  
23 amended—

1           (1) in clause (i), by striking “the term” and in-  
2           serting “The term”, and by striking “, and” at the  
3           end and inserting a period;

4           (2) in clause (ii), by striking “the term” and in-  
5           serting “The term”; and

6           (3) by adding at the end the following new  
7           clauses:

8                   “(iii) The term ‘qualified child abuse order’  
9                   means a child abuse order—

10                           “(I) which creates or recognizes the  
11                           existence of an alternate payee’s right to,  
12                           or assigns to an alternate payee the right  
13                           to, receive all or a portion of the benefits  
14                           payable with respect to a participant under  
15                           a plan, and

16                                   “(II) with respect to which the re-  
17                                   quirements of subparagraphs (C) and (D)  
18                                   are met.

19                                   “(iv) The term ‘child abuse order’ means  
20                                   any court order or other similar process for the  
21                                   enforcement of a judgment rendered against a  
22                                   participant or beneficiary under a plan for  
23                                   physically, sexually, or emotionally abusing a  
24                                   child. For purposes of this clause—

1                   “(I) The term ‘judgment rendered for  
2                   physically, sexually, or emotionally abusing  
3                   a child’ means any legal claim perfected  
4                   through a final enforceable judgment,  
5                   which claim is based in whole or in part  
6                   upon the physical, sexual, or emotional  
7                   abuse of a child, whether or not that abuse  
8                   is accompanied by other actionable wrong-  
9                   doing, such as sexual exploitation or gross  
10                  negligence.

11                   “(II) The term ‘child’ means an indi-  
12                  vidual under 18 years of age.”.

13                  (c) EXEMPTION FROM PREEMPTION.—Section  
14                  514(b)(7) of such Act (29 U.S.C. 1144(b)(7)) is amended  
15                  by inserting “or qualified child abuse orders (within the  
16                  meaning of section 206(d)(3)(B)(iii))” before the period.

17                  (d) CONFORMING AMENDMENTS.—Section 206(d)(3)  
18                  of such Act (29 U.S.C. 1056(d)(3)) is amended—

19                   (1) in subparagraph (C), by inserting “or child  
20                   abuse order” after “A domestic relations order”;

21                   (2) in subparagraph (D), by inserting “or child  
22                   abuse order” after “A domestic relations order”;

23                   (3) in subparagraph (E)(i), by inserting “or  
24                   child abuse order” after “A domestic relations  
25                   order”;

1           (4) in subparagraph (G)(i), by inserting “or  
2     child abuse order” after “any domestic relations  
3     order”, by striking “domestic relations orders” in  
4     subclause (I) and inserting “such an order”, and by  
5     inserting “or a qualified child abuse order” in  
6     subclause (II) after “a qualified domestic relations  
7     order”;

8           (5) in subparagraph (G)(ii), by inserting “and  
9     child abuse orders” after “domestic relations or-  
10    ders”, and by inserting “or child abuse order” after  
11    “domestic relations order” each place it appears in  
12    subclauses (II) and (III);

13          (6) in subparagraph (H)(i), by inserting “or  
14    whether a child abuse order is a qualified child  
15    abuse order” after “whether a domestic relations  
16    order is a qualified domestic relations order”, and by  
17    inserting “or a qualified child abuse order” after “to  
18    be a qualified domestic relations order”;

19          (7) in subparagraph (H)(ii), by inserting “or a  
20    qualified child abuse order” after “a qualified do-  
21    mestic relations order”;

22          (8) in subparagraph (H)(iii), by inserting “(in  
23    the case of a domestic relations order) or a qualified  
24    child abuse order (in the case of a child abuse

1 order)” after “a qualified domestic relations order”  
2 each place it appears in subclauses (I) and (II);

3 (9) in subparagraph (H)(iv), by inserting “or a  
4 qualified child abuse order” after “a qualified do-  
5 mestic relations order”;

6 (10) in subparagraph (H)(v), by inserting “or  
7 child abuse order” after “the domestic relations  
8 order”;

9 (11) in subparagraph (I)(i), by inserting “or  
10 child abuse order” after “a domestic relations  
11 order”, and by inserting “or qualified child abuse  
12 order, respectively” after “a qualified domestic rela-  
13 tions order”;

14 (12) in subparagraph (J), by inserting “or a  
15 qualified child abuse order” after “a qualified do-  
16 mestic relations order”;

17 (13) in subparagraph (K), by inserting “or  
18 child abuse order” after “a domestic relations  
19 order”; and

20 (14) in subparagraph (M), by inserting “or a  
21 qualified child abuse order” after “a qualified do-  
22 mestic relations order”.

1 **SEC. 253. AMENDMENTS TO THE INTERNAL REVENUE CODE**  
2 **OF 1986.**

3 (a) CREATION OR ASSIGNMENT OF RIGHTS TO BENE-  
4 FITS UNDER QUALIFIED CHILD ABUSE ORDERS.—Sub-  
5 paragraph (B) of section 401(a)(13) of the Internal Reve-  
6 nue Code of 1986 (relating to assignment of benefits) is  
7 amended—

8 (1) by inserting “OR CHILD ABUSE ORDERS”  
9 after “DOMESTIC RELATIONS ORDERS” in the head-  
10 ing;

11 (2) by inserting “or a child abuse order” after  
12 “a domestic relations order”; and

13 (3) by inserting “or a qualified child abuse  
14 order” after “a qualified domestic relations order”.

15 (b) QUALIFIED CHILD ABUSE ORDERS.—Section  
16 414(p) of such Code (defining qualified domestic relations  
17 order) is amended—

18 (1) in the heading, by inserting “AND QUALI-  
19 FIED CHILD ABUSE ORDER” after “ORDER”; and

20 (2) in paragraph (1), by adding at the end the  
21 following new subparagraphs:

22 “(C) QUALIFIED CHILD ABUSE ORDER.—  
23 The term ‘qualified child abuse order’ means a  
24 child abuse order—

25 “(i) which creates or recognizes the  
26 existence of an alternate payee’s right to,

1 or assigns to an alternate payee the right  
2 to, receive all or a portion of the benefits  
3 payable with respect to a participant under  
4 a plan, and

5 “(ii) with respect to which the re-  
6 quirements of paragraphs (2) and (3) are  
7 met.

8 “(D) CHILD ABUSE ORDER.—

9 “(i) IN GENERAL.—The term ‘child  
10 abuse order’ means any court order or  
11 other similar process for the enforcement  
12 of a judgment rendered against a partici-  
13 pant or beneficiary under a plan for phys-  
14 ically, sexually, or emotionally abusing a  
15 child.

16 “(ii) DEFINITIONS.—For purposes of  
17 this subparagraph—

18 “(I) The term ‘judgment ren-  
19 dered for physically, sexually, or emo-  
20 tionally abusing a child’ means any  
21 legal claim perfected through a final  
22 enforceable judgment, which claim is  
23 based in whole or in part upon the  
24 physical, sexual, or emotional abuse of  
25 a child, whether or not that abuse is

1 accompanied by other actionable  
2 wrongdoing, such as sexual exploi-  
3 tation or gross negligence.

4 “(II) The term ‘child’ means an  
5 individual under 18 years of age.”.

6 (c) CONFORMING AMENDMENTS.—Subsection (p) of  
7 section 414 of such Code is amended—

8 (1) in paragraph (2), by inserting “or child  
9 abuse order” after “A domestic relations order”;

10 (2) in paragraph (3), by inserting “or child  
11 abuse order” after “A domestic relations order”;

12 (3) in paragraph (4)(A), by inserting “or child  
13 abuse order” after “a domestic relations order”;

14 (4) in paragraph (6)(A), by inserting “or child  
15 abuse order” after “any domestic relations order”,  
16 by striking “domestic relations orders” in clause (i)  
17 and inserting “such an order”, and by inserting “or  
18 a qualified child abuse order” in clause (ii) after “a  
19 qualified domestic relations order”;

20 (5) in paragraph (6)(B), by inserting “and  
21 child abuse orders” after “domestic relations or-  
22 ders”;

23 (6) in paragraph (7)(A), by inserting “or  
24 whether a child abuse order is a qualified child  
25 abuse order” after “whether a domestic relations

1 order is a qualified domestic relations order”, and by  
2 inserting “or a qualified child abuse order” after “to  
3 be a qualified domestic relations order”;

4 (7) in paragraph (7)(B), by inserting “OR  
5 QUALIFIED CHILD ABUSE ORDER” in the heading  
6 after “QUALIFIED DOMESTIC RELATIONS ORDER”,  
7 and by inserting “or a qualified child abuse order”  
8 after “a qualified domestic relations order”;

9 (8) in paragraph (7)(C), by inserting “(in the  
10 case of a domestic relations order) or a qualified  
11 child abuse order (in the case of a child abuse  
12 order)” after “a qualified domestic relations order”  
13 each place it appears in clauses (i) and (ii);

14 (9) in paragraph (7)(D), by inserting “or a  
15 qualified child abuse order” after “a qualified do-  
16 mestic relations order”;

17 (10) in paragraph (7)(E), by inserting “or child  
18 abuse order” after “the domestic relations order”;

19 (11) in paragraph (8), by inserting “or child  
20 abuse order” after “a domestic relations order”;

21 (12) in paragraph (9), by inserting “or a quali-  
22 fied child abuse order” after “a qualified domestic  
23 relations order”;

1           (13) in paragraph (10), by inserting “or a  
2           qualified child abuse order” after “a qualified do-  
3           mestic relations order”; and

4           (14) in paragraph (11), by inserting “(in the  
5           case of a domestic relations order) or a qualified  
6           child abuse order (in the case of a child abuse  
7           order)” after “pursuant to a qualified domestic rela-  
8           tions order”, and by inserting “or a child abuse  
9           order” after “pursuant to a domestic relations  
10          order”.

11          (d) TAX TREATMENT OF DISTRIBUTIONS PURSUANT  
12 TO QUALIFIED CHILD ABUSE ORDERS.—

13           (1) ALTERNATE PAYEE MUST INCLUDE BENE-  
14           FITS IN GROSS INCOME.—Paragraph (1) of section  
15           402(e) of such Code (relating to alternate payee  
16           under qualified domestic relations order treated as  
17           distributee) is amended by inserting “or qualified  
18           child abuse order” after “a qualified domestic rela-  
19           tions order” each place it appears.

20           (2) ALLOCATION OF INVESTMENT IN THE CON-  
21           TRACT.—Paragraph (10) of section 72(m) of such  
22           Code (relating to determination of investment in the  
23           contract in the case of qualified domestic relations  
24           orders) is amended—

1 (A) in the heading, by inserting “AND  
2 QUALIFIED CHILD ABUSE ORDERS” after  
3 “QUALIFIED DOMESTIC RELATIONS ORDERS”;  
4 and

5 (B) by inserting “or qualified child abuse  
6 order” after “a qualified domestic relations  
7 order”.

8 (3) CLARIFICATION OF ELIGIBILITY OF PARTIC-  
9 IPANT FOR LUMP SUM TREATMENT.—

10 (A) Subparagraph (H) of section 402(d)(4)  
11 of such Code (relating to balance to credit of  
12 employee not to include amounts payable under  
13 qualified domestic relations order) is amend-  
14 ed—

15 (i) in the heading, by inserting “OR  
16 QUALIFIED CHILD ABUSE ORDER” after  
17 “QUALIFIED DOMESTIC RELATIONS  
18 ORDER”; and

19 (ii) by inserting “or qualified child  
20 abuse order” after “a qualified domestic  
21 relations order”.

22 (B) Subparagraph (J) of section 402(d)(4)  
23 of such Code is amended by inserting “, or  
24 under a qualified child abuse order (within the  
25 meaning of section 414(p)) of the balance to

1           the credit of an alternate payee,” after “former  
2           spouse of the employee”.

3 **SEC. 254. EFFECTIVE DATE.**

4           The amendments made by this subtitle shall take ef-  
5           fect on January 1, 1998, except that, in the case of a child  
6           abuse order entered before such date, the plan adminis-  
7           trator—

8                   (1) shall treat such order as a qualified child  
9           abuse order if such administrator is paying benefits  
10          pursuant to such order on such date, and

11                   (2) may treat any other such order entered be-  
12          fore such date as a qualified child abuse order even  
13          if such order does not meet the requirements of such  
14          amendments.