

Memorandum

NOW Government Relations Report

To: National Organization for Women Board Members

From: Jan Erickson, Director, Government Relations

Date: October 29, 2019

Priority Bills Moving through Congress

The U.S. House of Representatives is continuing an aggressive agenda in passing legislation prioritized by the progressive, civil rights, and women's rights communities. As we reported earlier, the first bill to be considered was **Violence Against Women Reauthorization Act of 2019** which passed the House on April 4 with bipartisan votes and was sent to the Senate. We are still waiting for Senate action on that critically important measure; reportedly, the delay is because of Republican opposition to a provision relating to firearms. VAWA 2019 would improve enforcement of current federal domestic violence-related firearms laws and would close loopholes to reduce firearm-involved abuse and intimate partner homicide.

Grim Statistics - After declining steadily since 1996, homicide numbers for women began increasing in 2014. The latest available data (2017) on murdered women (2017) shows an increase in the annual total, nearly 2000 women that year were murdered, most by someone they knew with 57 percent killed with a firearm (in cases when the weapon could be identified, according to an analysis of FBI data by the **Violence Policy Center**, <http://vpc.org/studies/wmmw2019.pdf> . Black females were murdered at a rate more than twice as high as that for white females and American Indian and Alaskan Native females were murdered by male offenders at a rate higher than white females. Improved firearms safety measures are critically important for women and we hope that this provision remains in the reauthorized VAWA.

At the same time, since VAWA's passage in 1994, we know that an untold number of lives have been saved because of the many programs that VAWA helps fund, including the critically important **Domestic Violence Hotline**, <https://www.thehotline.org/> The Hotline is observing its 35th anniversary this year and reports that recently they received their fifth millionth contact! For a summary of the incidence of domestic violence and sexual assault, costs to society, progress for victims, and detail on the overwhelming needs that remain, go to the **National Network to End Domestic Violence** website, <https://nnedv.org/mdocs-posts/domestic-violence-and-sexual-assault-factsheet/>

VAWA 2019 increases authorization for the Rape Prevention & Education Program from \$50 million to \$150 million to address skyrocketing need and demand for community prevention programs. The bill acknowledges the trauma of incarceration on women and their family members, especially their children, and improves health care services and trauma informed responses to better prepare incarcerated women to return to their communities. And finally, VAWA expands VAWA's ability to respond to sexual harassment, among many other important provisions.

Please be sure that you call your senators ((202-224-3121) and urge them to help move the Violence Against Women Reauthorization Act of 2019 to a floor vote. Republican senators, especially, need to hear from constituents.

House Adopts Paycheck Fairness Act Again

The **Paycheck Fairness Act** (H.R. 7) has been repeatedly reintroduced in Congress for more than 20 years. Sometimes it was passed by a Democratic-controlled Senate and ignored in a Republican-controlled House. In other years, it was the reverse. The current House passed it again on March 27 with bipartisan support. Considering that the legislation takes very modest steps towards equal pay for women, it is a sad commentary on our lawmakers that they have failed to so often to get it passed into law.

Much pressure will have to be brought on the Republican-controlled Senate to have the leadership bring the measure to a floor vote. Please try to reach your senators to urge them to take action. Here is what the Paycheck Fairness Act would do:

- This bill addresses wage discrimination on the basis of sex. It amends equal pay provisions of the Fair Labor Standards Act of 1938 to (1) restrict the use of the bona fide factor defense to wage discrimination claims, (2) enhance nonretaliation prohibitions, (3) make it unlawful to require an employee to sign a contract or waiver prohibiting the employee from disclosing information about the employee's wages, and (4) increase civil penalties for violations of equal pay provisions.
- The Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs shall train EEOC employees and other affected parties on wage discrimination.
- The bill directs the Department of Labor to (1) establish and carry out a grant program for negotiation skills training programs to address pay disparities, including through outreach to women and girls; (2) conduct studies to eliminate pay disparities between men and women; and (3) make available information on wage discrimination to assist the public in understanding and addressing such discrimination.

- The bill requires the EEOC to issue regulations for collecting from employers' compensation and other employment data according to the sex, race, and national origin of employees for use in enforcing laws prohibiting pay discrimination.

Another Priority Bill Moves Forward - The Equality Act

On May 17, the House adopted by a near straight line party vote the H.R. 5, the **Equality Act** that would strengthen prohibitions against discrimination of LGBTQIA+ persons. The measure is much needed as the Trump administration has greatly expanded religious and conscience exemptions for individuals and organizations who do not want to serve LGBTQIA+ people. On October 8, the U.S. Supreme Court heard oral arguments in three cases involving workplace discrimination of LGBTQIA+ persons. Given the now conservative majority on the high court, there is worry that the Justices will decide discrimination is okay. Announcement of the Court's ruling is expected next Spring.

It may be that with the presidential election in 2020, that the Senate Republicans will take up the Equality Act. Pressure from their constituents will help; here is what the Equality Act would do:

- This bill prohibits discrimination based on sex, sexual orientation, and gender identity in a wide variety of areas including public accommodations and facilities, education, federal funding, employment, housing, credit, and the jury system. Specifically, the bill defines and includes sex, sexual orientation, and gender identity among the prohibited categories of discrimination or segregation.
- The bill expands the definition of public accommodations to include places or establishments that provide (1) exhibitions, recreation, exercise, amusement, gatherings, or displays; (2) goods, services, or programs; and (3) transportation services.
- The bill allows the Department of Justice to intervene in equal protection actions in federal court on account of sexual orientation or gender identity.
- Protections against discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin shall include protections against discrimination based on (1) an association with another person who is a member of such a protected class; or (2) a perception or belief, even if inaccurate, that an individual is a member of such a protected class. The bill prohibits the Religious Freedom Restoration Act of 1993 from providing a claim, defense, or basis for challenging such protections.
- The bill prohibits an individual from being denied access to a shared facility, including a restroom, a locker room, and a dressing room, that is in accordance with the individual's gender identity.

Raising the Federal Minimum Wage, Finally

Over the years, it has been very difficult to pass legislation that raises the federal minimum wage to keep up with the effects of inflation. Currently the federal minimum wage is \$7.25 and has not been increased since 2009. But a bill, **Raise the Wage Act** (H.R. 582/ S. 150) would increase the minimum wage to \$15 by 2023. The wage would be increased incrementally every year until 2023 for a 6-year gradual rollout. This bill would also expand wages for individuals with disabilities and tipped employees. The legislation was adopted in the House on July 22, in a party line vote of 231 to 199.

Women constitute two-thirds of the minimum wage labor force, so this is clearly a women's poverty issue. As important as the Raise the Wage Act is to close the huge income gap, it is doubtful that the Senate will take it up.

Raise the Wage Act amends the **Fair Labor Standards Act of 1938** to increase the federal minimum wage for regular employees over a 7-year period, for tipped employees, and for newly hired employees who are less than 20 years old. The bill sets forth a schedule of annual increases in the federal minimum wage for individuals with disabilities. The Department of Labor shall no longer issue special certificates for the payment of subminimum wages to such individuals after the final wage increase under this bill for such individuals takes effect.

Importantly, the bill eliminates the separate minimum wage for tipped workers. Since the early 1990s tipped workers minimum wage has been \$2.13 per hour! In theory, tipped workers were supposed to get at least \$5.12 an hour that would bring their wage up to the federal minimum of \$7.25 – but often wage theft by owners and managers cheat tipped workers out of their full wage. And often tipped workers are scheduled to work less than 40 hours per week.

The bill eliminates the separate minimum wage requirements for tipped, newly hired, and disabled employees. After a specified period, these employees shall be paid the same minimum wage as regular employees. The Labor Department is also directed to ensure continuing employment opportunities to assist employees with disabilities

Other Priority Legislation Pending

Advocates are working hard to move key legislation out of committee and on to a floor vote in the House. Among those bills we expect to see the BE Heard in the Workplace Act (H.R. 2148), Social Security 2100 Act (H.R. 860) and the Pregnant Workers Fairness Act (H.R. 2694). It is unclear whether the House Impeachment hearings, thought to begin sometime in November, will slow progress in getting priority legislation adopted.