

# Defining Domestic Violence

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In 2018, the Office on Violence Against Women (OVW) changed the expansive domestic violence (DV) definition that appeared on its website to the more narrow [statutory definition](#) used for grant programs. There is some confusion as to the meaning and implication of OVW's change. In the 116<sup>th</sup> Congress, legislation has been introduced that would amend the definition used in the [Violence Against Women Act \(VAWA\)](#) grant programs—the Violence Against Women Reauthorization Act of 2019 ([H.R. 1585](#)), if enacted, would amend and expand the definition of DV.

## Federal Definitions of DV

The federal government defines DV in different ways and for different purposes. Under criminal statute, [18 U.S.C. §2261](#) defines a DV offender that falls under federal jurisdiction as:

[a] person who travels in interstate or foreign commerce or enters or leaves Indian country or is present within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel or presence, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner.

For VAWA grant purposes, VAWA [states](#):

The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

[OVW](#) administers VAWA grants, and the DV definition on OVW's website matches the definition Congress established for grants. OVW *previously* (April 2018 and earlier) posted a more expansive definition that described DV as a "pattern of behavior" and included both economic and emotional abuse. Of note, changes to the [OVW website definition](#) have no impact on VAWA grantees. In the 116<sup>th</sup> Congress, [H.R. 1585](#), if enacted, would amend the statutory definition used for grant programs to resemble the more expansive definition previously published by OVW. This change *would* impact future VAWA grantees.

Expanded Definition for VAWA Grant Programs under [H.R. 1585](#)

[H.R. 1585](#) would define DV as:

a pattern of behavior involving the use or attempted use of physical, sexual, verbal, emotional, economic, or technological abuse or any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, by a person who—

(A) is a current or former spouse or dating partner of the victim, or other person similarly situated to a spouse of the victim under the family or domestic violence laws of the jurisdiction;

(B) is cohabitating with or has cohabitated with the victim as a spouse or dating partner, or other person similarly situated to a spouse of the victim under the family or domestic violence laws of the jurisdiction;

(C) shares a child in common with the victim;

(D) is an adult family member of, or paid or nonpaid caregiver for, a victim aged 50 or older or an adult victim with disabilities; or

(E) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

The bill would describe DV as a pattern of abusive behavior, and extend the current definition beyond crimes of violence to include verbal, emotional, economic, and technological abuse (the bill also defines the latter two forms of abuse).

#### Potential Implications of an Expanded Definition

A more expansive definition of DV would generally expand the number of individuals who are eligible for support from VAWA grantees. A broader definition captures harmful behavior (such as [financial abuse](#)) that is not physical in nature but is another form of abuse common in relationships involving domestic violence. [Victim advocates](#) support this more inclusive definition.

On the other hand, some argue that a violent act is qualitatively different from other forms of abuse such as economic abuse, and legal definitions should reflect that distinction. In [United States v. Castleman](#), the U.S. Supreme Court held that a misdemeanor offense of having "intentionally or knowingly cause[d] bodily injury to" the mother of the respondent's child qualified as "a misdemeanor crime of domestic violence." The opinion of the Court (delivered by Justice Sotomayor) included extensive discussion of defining and distinguishing between acts of physical force. The Court ruled that it must attribute "the common-law meaning of 'force' to [18 U.S.C.] §921(a)(33)(A)'s definition of a 'misdemeanor crime of domestic violence' as an offense that 'has, as an element, the use or attempted use of physical force.'" In a concurring opinion, Justice Scalia argued that "[w]hen everything is domestic violence, nothing is." He further argued that if a DV definition were to include all harmful domestic acts, Congress would "have to come up with a new word ... to denote actual domestic *violence*."

Further, defining DV as "a pattern of behavior" seemingly excludes isolated DV incidents that do not involve a pattern of behavior. So while the goal *may* be to be more inclusive, the proposed definition could exclude isolated incidents of domestic violence that do not meet the "pattern of behavior" standard.

Congress may choose to expand the definition of DV for [VAWA grants](#) or maintain the current definition. Alternatively, it could separately define terms such as "economic abuse" and "technological abuse" and add them to the eligibility criteria for grant programs. The addition of these terms to grant programs' purpose areas would achieve some advocates' desired goal of expanding VAWA support for more victims, not solely those of violent physical acts.