

LEGISLATIVE UPDATE: LEGISLATION AFFECTING WOMEN IN THE 100TH CONGRESS AND IN THE 1988 MARYLAND GENERAL ASSEMBLY

FEDERAL LEGISLATION

The 100th Congress enacted such major pieces of legislation as a catastrophic health insurance package, a welfare reform initiative, and a measure to correct drafting problems in the Tax Reform Act of 1986. Important legislation was passed in the areas of civil rights, equal protection for women business owners, and child support enforcement. Included in all of these bills are provisions designed to aid women.

BILLS ENACTED

★ Civil Rights Restoration Act (P.L. 100-259): Congress enacted this legislation over a Presidential veto in April 1988 to reinstate the institution-wide coverage of Title IX of the Education Amendments of 1972 and three other similarly-worded civil rights laws. The Civil Rights Restoration Act was introduced first in the 98th Congress to overturn the Supreme Court's 1984 ruling in *Grove City v. Bell* that Title IX of the Education Amendments of 1972 — which prohibits discrimination in education — is limited to only the "program or activity" that receives federal funds, rather than the institution as a whole, as had been the previous interpretation. Under the Civil Rights Restoration Act, the antidiscrimination protections of Title IX and the other laws extend to the educational institution in its entirety. The other civil rights laws affected are Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

★ Equal Credit Opportunity Act (H.R. 1897): This equal credit provision was introduced by Rep. Lindy Boggs as a part of the Economic Equity Act. H.R. 1897, which would extend the current antidiscrimination prohibitions that apply to consumer credit to commercial credit, was approved by the House in two different ways. H.R. 1897 was approved as an amendment to the Depository Institutions Act (H.R. 5094) by the House Banking, Finance, and Urban Affairs Committee on July 28, 1988. The Senate did not complete action on a banking authorization bill. The equal credit provision is also included in H.R. 5050, the Women's Business Ownership Act, introduced by Rep. John LaFalce.

★ Medicare Catastrophic Protection Act (P.L. 100-360): Included in this omnibus catastrophic health care package are two provisions that help women. The first would address the issue of spousal impoverishment, a problem that frequently occurs when one spouse enters a nursing home and the other spouse is left in the home with no financial protection. Language based on bills introduced by Rep. Olympia Snowe and Sen. Barbara Mikulski as part of the Economic Equity Act was included in the catastrophic bill to set the income level for the at-home spouse at 122 percent of the monthly federal poverty income line for a two-person household (\$768 in 1988) beginning September 30, 1989; at 133 percent for July 1, 1991; and at 150 percent for July 1, 1992. This minimum allowance may not exceed \$1,500. Additionally, the at-home spouse would be allowed to keep a minimum of \$12,000 in resources up to a \$60,000 maximum and still qualify for Medicaid payments.

The catastrophic health care law also includes language championed by Rep. Barbara Kennelly to provide for Medicare coverage of a mammogram every two years for women over 64 years old. The law also includes a study on whether the cost structure and the limitation of one mammogram every two years are sufficient.

★ Child Care in Public Housing (P.L. 100-242): This provision to establish child care facilities in public housing projects, originally introduced as an Economic Equity Act provision by Rep. Marcy Kaptur, was approved as part of an omnibus housing measure adopted by Congress this session. An earmark of \$5 million in funding for the program was secured by Rep. Lindy Boggs through the FY 89 appropriations measure for the Department of Housing and Urban Development.

★ Title XX Authorization (P.L. 100-203): As part of the Omnibus Budget Reconciliation Act of 1988, Congress approved a \$50 million increase in the authorization for Title XX Social Service Block Grant. The Title XX authorization increase was originally introduced by Rep. Barbara Kennelly as an Economic Equity Act provision.

- ★ Fair Housing Amendments Act (P.L. 100-430): This law strengthens the enforcement of current federal antidiscrimination in housing laws by putting into place an enforcement mechanism for resolving housing discrimination complaints. The law also extends the current prohibition on discrimination in housing based on race, color, religion, national origin, or sex to include familial status and disability.
- ★ Family Support Act (P.L. 100-485): The Family Support Act is the first major overhaul of the nation's welfare system in its 53 year history. The core of the bill provides for a new employment and skills training program called the Job Opportunity and Basic Skills Training Program (JOBS). The Family Support Act also includes a strengthening of the nation's child support enforcement program. The President signed the welfare measure into law on October 13.
- ★ Women in Development: Included in the FY 89 foreign operations appropriations measure (P.L. 100-461) is a provision, originally introduced as H.R. 4049/S. 2330 by Reps. Mickey Leland and Patricia Schroeder and Sen. Barbara Mikulski, to direct the Agency for International Development to ensure women are participating in international development programs. A minimum of \$5 million would be earmarked to promote such integration of women as equal partners in the development process in developing countries. Another \$1 million would go to the United Nations Development Fund for Women (UNIFEM) and the International Research and Training Institute for the Advancement of Women (INSTRA), two United Nations organizations that work to integrate women into United Nations development programs.
- ★ Technical Corrections Act of 1988 (H.R. 4333/S. 2388): Included in this legislation to correct technical problems in the Tax Reform Act of 1986 is a provision originally introduced by Rep. Barbara Kennelly as part of H.R. 2613 to close the current loophole that allows businesses to establish separate lines of business and thus exclude certain of their employees from pension coverage. H.R. 4333 also would simplify the rules of coverage for employer-sponsored health and welfare benefit programs and correct a problem regarding the taxation of joint and survivor annuity benefits. The House and Senate gave the measure final approval just before adjourning.
- ★ Regulation of Clinical Laboratories (H.R. 5471): H.R. 5471, which was cleared by Congress on October 11, would require clinical laboratories to obtain federal certification in order to operate. The bill would require the development of specific regulations to reduce the rate of false negatives for Pap smears, for example, setting maximum workloads for technicians who examine Pap smears.
- ★ Family Violence Prevention and Services Act Reauthorization (P.L. 100-294): Congress approved a four year reauthorization of the Family Violence Prevention and Services Act, which provides direct services such as shelter and counseling to victims of family violence. The program was authorized at \$26 million in FY 88 and at such sums as necessary for the ensuing three years. Funding for the program in FY 89 is earmarked at \$8.2 million.
- ★ Women's Business Ownership Act (H.R. 5050): H.R. 5050 was approved by the House on October 3 and by the Senate on October 11. The legislation includes the equal credit provision; the improvement of statistical data on women-owned businesses compiled by the federal government; a guaranteed mini-loan program; a \$10 million authorization for a three-year public/private training program to provide management training and technical assistance for women entrepreneurs; and the establishment of a National Women's Business Council made up of high level private sector representatives and government policy-makers charged with submitting recommendations to Congress and to the President, for a multi-year plan of action to support women business owners.
- ★ Federal Employees Health Benefits Amendment Act (H.R. 5102): Included in this bill to extend federal employee health benefits in a provision, introduced by Rep. Constance Morella, to extend coverage of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to federal and Congressional workers. Rep. Morella's language, like COBRA, would provide health insurance continuation for up to 18 months for former workers, their families, and their former or widowed spouses and children. The bill was approved on October 19.
- ★ Vietnam Women's Memorial (S. 2042): Congress approved this legislation authorizing the establishment of a memorial to the women who served in the Vietnam War. The statue of a nurse who served in Vietnam will be placed at the Vietnam War Memorial Site.
- ★ Small Business Administration Reauthorization (H.R. 4174): This measure to reauthorize the Small Business Administration (SBA) includes several provisions of importance to women. The bill would establish a guaranteed mini-loan of up to \$50,000 for small and disadvantaged business owners who have difficulty in obtaining credit elsewhere. It also would make a \$10 million authorization for a three-year demonstration project to establish a public/private training program to provide management training and technical assistance to women entrepreneurs. The legislation also includes two studies. The first would assess the demand and availability of debt financing for service sector businesses and the second would examine the most efficient means of improving federal data collection on women-owned businesses. The House and Senate gave final approval of the measure on October 5 and 20, respectively.
- ★ House Fair Employment Practices (H. Res. 558): The House approved the resolution to protect Congressional employees against discrimination by a vote of 408 to 12 on October 4. The resolution provides House employees with protection against discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age. The



resolution also establishes an Office of Fair Employment Practices to counsel, mediate, investigate, and hear alleged violations. The measure required only House approval and went into effect on November 1.

★ Sewell-Belmont House (P.L. 100-355): This measure authorized a \$500,000 increase in funding for the Sewell-Belmont House National Historic Site. The Sewell-Belmont House was once the residence of Alice Paul, founder of the Woman's Party and author of the Equal Rights Amendment. The measure was signed into law on June 28.

A major disappointment was Congress' inaction on such issues as medical leave, child care, and pay equity. An optimistic note, however, was the fact that these issues reached the Senate floor for debate.

OTHER LEGISLATIVE ACTION

★ Federal Equitable Pay Practices Act (H.R. 387): For the third time, the House approved this legislation, authored by Rep. Mary Rose Oakar, to require a pay equity study of the federal wage and classification systems. A similar bill, introduced by Sens. Daniel Evans and Alan Cranston, was offered as an amendment to the Technical Corrections Act (H.R. 4333) on the Senate floor, but was later withdrawn by its authors.

★ Family and Medical Leave Act (H.R. 925)/Parental and Temporary Medical Leave Act (S. 2488): This legislation, introduced by Reps. Patricia Schroeder and William Clay and Sen. Christopher Dodd, to provide a minimum amount of job-guaranteed leave for parenting and medical reasons, was reported by the House Education and Labor Committee on November 17, 1987, by the House Post Office and Civil Service Committee on February 3, and by the Senate Labor and Human Resources Committee on July 17. The measure was debated in the Senate, where child pornography and child care language was attached. The bill ultimately died when supporters could not garner enough votes to win cloture.

★ Act for Better Child Care Services (H.R. 3660/S. 1185): This measure to increase the quality, supply, and affordability of child care was reported by the Senate Labor and Human Resources Committee on July 27 and was approved by the House Education and Labor Committee on August 11. A compromise child care provision, developed by Sens. Christopher Dodd and Orrin Hatch, was attached to the parental leave measure (S. 2488) in the Senate. The bill ultimately died with the end of Senate consideration of parental leave.

★ Minimum Wage (H.R. 1834/S. 837): Legislation to increase the minimum wage was tabled by the Senate following two successful attempts to win a cloture motion to limit debate on the measure. The Senate bill would have raised the minimum wage from its current rate of \$3.35 an hour to \$4.55 over three years. The House version was reported out by the Education and Labor Committee but was not considered on the House floor.

★ International Family Planning: Language to overturn the 1984 "Mexico City" decision, which restricts federal funds to international family planning organizations who perform abortion-related services with private moneys, was included in both the House and Senate foreign assistance authorization bills. The House approved its foreign assistance authorization bill, but no action was taken on a similar bill in the Senate.

STATE LEGISLATION

The 1988 Maryland General Assembly considered many pieces of legislation that would have improved the economic security of women and would have affected the lives of women and their families. Several of these proposals were enacted and will offer tangible benefits to Maryland women.

BILLS ENACTED

★ The Budget Bill (HB 200): The State Budget Bill for FY 1989 includes:

- an increase of \$536,000 to expand the Prenatal Assistance Program;
- a 5 percent increase in AFDC grants and a \$10 per month per recipient increase in GPA grants;
- an increase of \$541,430 to expand the number of Family Support Centers;
- an additional \$625,000 for programs serving women in crisis and transition.

The use of Medicaid funds to pay for abortions for poor women became an issue during the budget deliberations. Several attempts were made to amend the Budget Bill's restrictive language. The proposed amendments would have eased the conditions under which pregnant women can obtain Medicaid-funded abortions. The amendments failed in both the Senate and the House.

★ Department of Personnel - Personnel System Reform (HB 741): An omnibus Departmental bill, HB 741, is a substantial revision and reform of those aspects of the merit system dealing with reclassification, hiring, eligibility lists, competitive



Included in HB 741 is a requirement that the Secretary of Personnel recommend a pay plan to the Governor for all classified and unclassified positions. The plan should provide that "all positions in the service involving comparable skills, knowledge, effort, responsibility, and working conditions shall be paid comparable salaries in accordance with the relative value of the services performed."

The bill also requires the Department of Personnel (DOP) to adopt regulations permitting the use of sick leave for illness in an employee's immediate family and providing "family leave" for State employees. In establishing a family leave policy, HB 741:

- provides unpaid family leave to an employee for the care of (1) a newborn child, a newly adopted child, or a newly placed foster child; (2) a seriously ill child, spouse, or legal dependent; or (3) a child under 14 years of age during periods of school vacation;
- grants family leave for 12 weeks in any 12-month period;
- continues coverage of all benefits, provided the employee pays the full cost, including the share ordinarily paid by the State; and
- guarantees that the employee's position will be available when he/she returns from family leave.

The bill does not guarantee that family leave will be granted to every employee who requests it. The language in the bill is discretionary, leaving the decision to grant or deny family leave to individual supervisors.

House Bill 741 also requires that State government maintain its daily operations on Lincoln's Birthday, Maryland Day, and Defender's Day. The legislation allows employees to observe those days as holiday, or work on those days and take time off from work at a later date. Employees will have the option of using these "floating holidays" to their advantage. Time off from work can be scheduled to coincide with parental and family responsibilities; i.e., school closings.

★ Family Law - Domestic Violence - Household Members (SB 67): Senate Bill 67 broadens the definition of "household members" for purposes of including in the Protection from Domestic Violence Act, unmarried persons residing together who have at least one minor child in common. The bill allows a partner in a domestic relationship to petition the court to order an alleged abuser to stop the abuse and vacate the family home for up to thirty days. A person who disobeys such an order is subject to contempt proceedings and criminal sanctions.

★ Medical Laboratories and Procedures (HB 1293/SB 320): Concerned about the potential for misinterpretation of Pap tests by overworked technicians, the General Assembly passed HB 1293 and SB 320. The bills strengthen existing law and increase the regulation of laboratories engaged in cytopathology. Regulations must limit the number of slides a cytologist may examine each year, prohibit the off-site or piecemeal examination of slides, provide for a review of at least 10% of all negative Pap smears and require an on-site quality assurance program.

★ Advisory Council on Infant Mortality (HB 1033): This bill creates an Advisory Council on Infant Mortality. The Council will advise the Department of Health and Mental Hygiene on ways to decrease infant mortality and improve prenatal care in Maryland.

★ Child Care - Consolidation (HB 768/SB 443): These bills transfer the regulatory authority and responsibility for child care from the Department of Health and Mental Hygiene (DHMH) to the Department of Human Resources (DHR). This change should streamline the regulatory process and eliminate inconsistencies caused by the separation of authority and responsibility under the previous law.

★ Day Care Facilities Loan Guarantee Fund and Child Care Facilities Direct Loan Fund (HB 768): The Day Care Facilities Loan Program, a State-funded program that guarantees loans to individuals, businesses, and corporations approximately tripled in size. A new program (HB 768), the Day Care Direct Loan Program, will provide loans up to 20% of the costs for the expansion or development of group and family day care facilities.

★ Group Day Care Center in State-Occupied Buildings or State Complexes (HB 1232): This legislation will make child care more accessible for State employees. The bill authorizes a pilot program to be administered by the Department of Human Resources (DHR) and to be housed in the Department of the Environment (DOE). The program must accommodate at least 29 children and operate for at least 3 years.

A great deal of work still remains to be done. There were several areas of concern where advocacy efforts were not successful. Attention will need to be directed toward those pieces of "unfinished business" during the 1989 Session of the Maryland General Assembly.

The Maryland Commission for Women has a more comprehensive report on file: *LEGISLATIVE AFFECTING WOMEN IN THE 1988 MARYLAND GENERAL ASSEMBLY*. To request a copy, contact the Commission office at 301/333-0054.

We wish to acknowledge information provided by the Congressional Caucus for Women's Issues, 2471 Rayburn House Office Building, Washington, DC 20515, 202/225-6740.

