

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2347  
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Survivor Justice Tax  
3 Prevention Act”.

**4 SEC. 2. EXCLUSION FROM GROSS INCOME OF ANY DAM-  
5 AGES, OTHER THAN PUNITIVE DAMAGES, RE-  
6 CEIVED ON ACCOUNT OF SEXUAL ACTS OR  
7 SEXUAL CONTACT.**

8       (a) IN GENERAL.—Section 104(a)(2) of the Internal  
9 Revenue Code of 1986 is amended by striking “on account  
10 of personal physical injuries or physical sickness;” and in-  
11 serting “on account of—

12               “(A) personal physical injuries or physical  
13 sickness, or

14               “(B) any sexual act (as defined in para-  
15 graph (2) of section 2246 of title 18, United  
16 States Code, as in effect on the date of the en-  
17 actment of this subparagraph) or sexual contact  
18 (as defined in paragraph (3) of such section, as

1           so in effect), whether or not there are medical  
2           records or observable injuries of such act or  
3           contact;”.

4           (b) BURDEN OF PROOF WITH RESPECT TO WHETH-  
5 ER DAMAGES ARE ON ACCOUNT OF SEXUAL ACT OR SEX-  
6 UAL CONTACT.—Section 104 of such Code is amended by  
7 redesignating subsection (d) as subsection (e) and by in-  
8 serting after subsection (c) the following new subsection:

9           “(d) BURDEN OF PROOF WITH RESPECT TO  
10 WHETHER DAMAGES ARE ON ACCOUNT OF SEXUAL ACT  
11 OR SEXUAL CONTACT.—For purposes of subsection  
12 (a)(2), if a decision or agreement states that any damages  
13 received therefrom are on account of a sexual act or sexual  
14 contact referred to in subsection (a)(2)(B)—

15           “(1) such statement shall be treated as credible  
16 evidence that such damages are so on account for  
17 purposes of section 7491(a), and

18           “(2) the taxpayer shall be treated as having  
19 met the requirements of section 7491(a)(2) with re-  
20 spect to the issue of whether such damages are so  
21 on account.”.

22           (c) EFFECTIVE DATE.—

23           (1) IN GENERAL.—The amendments made by  
24 this section shall apply to amounts received pursuant

1 to decisions made, and agreements entered into,  
2 after the date of the enactment of this Act.

3 (2) SPECIAL RULE FOR DECISIONS.—For pur-  
4 poses of paragraph (1), a decision shall be treated  
5 as made after the date of the enactment of this Act  
6 if the first payment pursuant to such decision is re-  
7 ceived after such date.

8 (3) SPECIAL RULE FOR AGREEMENTS.—For  
9 purposes of paragraph (1), an agreement shall not  
10 be treated as entered into after the date of the en-  
11 actment of this Act if such agreement replaces, su-  
12 persedes, or revises an agreement entered into on or  
13 before such date.

14 (d) NO INFERENCE WITH RESPECT TO EFFECT OF  
15 MEDICAL RECORDS OR OBSERVABLE INJURIES ON DE-  
16 TERMINATIONS WITH RESPECT TO PERSONAL PHYSICAL  
17 INJURIES OR PHYSICAL SICKNESS.—No inference may be  
18 drawn from the amendment made by subsection (a) (or  
19 from section 104(a)(2)(B) of the Internal Revenue Code  
20 of 1986, as amended by subsection (a)) with respect to  
21 whether the term “personal physical injuries or physical  
22 sickness” as used in section 104(a)(2) of such Code in-  
23 cludes injuries or sickness with respect to which there are  
24 no medical records or observable injuries.

1           (e) PROMOTION OF PUBLIC AWARENESS OF EXCLU-  
2 SION.—The Secretary of the Treasury (or the Secretary’s  
3 delegate), in consultation with the Department of Justice  
4 Office on Violence Against Women and other relevant  
5 Federal agencies, shall conduct a program to promote  
6 public awareness of the exclusion from gross income pro-  
7 vided by section 104(a)(2)(B) of the Internal Revenue  
8 Code of 1986, as amended by this section.

