To protect Native children and promote public safety in Indian country.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2016

Mr. Tester (for himself and Mr. Franken) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To protect Native children and promote public safety in Indian country.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tribal Youth and Community Protection Act of 2016”.

SEC. 2. FINDINGS.

Congress finds that—

(1) children in Indian country should be protected from violence;
(2) tribal communities should be able to protect themselves from offenders bringing illegal drugs onto Indian reservations;

(3) violence against children and crime associated with illegal drugs increase the number of instances of trauma in tribal communities, which—

(A) affects health outcomes;

(B) reduces educational attainment;

(C) hinders economic growth; and

(D) undermines public safety;

(4) Congress established the Indian Law and Order Commission to advise the Federal Government on how to improve criminal justice in Indian country;

(5) the Indian Law and Order Commission issued a report entitled “A Roadmap for Making Native America Safer”—

(A) which recommends the restoration of the inherent authority of tribal courts; and

(B) on which the Committee on Indian Affairs of the Senate, on February 12, 2014, held an oversight hearing and received testimony; and

(6) recognition of the inherent authority of Indian tribes to protect Native children from violence,
and tribal communities from illegal drugs, will reduce instances of trauma experienced by Indians.

SEC. 3. EXTENSION OF AUTHORIZATIONS.

(a) Indian Alcohol and Substance Abuse Prevention and Treatment Grants.—Section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412) is amended—

(1) by striking “appropriate,,” each place it appears and inserting “appropriate,”;

(2) in subsection (c)(1)(A)(iv), by striking “Indians as provided under section 4228, and” and inserting “Indians; and”;

(3) in subsection (d)(2), by striking “2011 through 2015” and inserting “2016 through 2020”; and

(4) in subsection (f)(3), by striking “2011 through 2015” and inserting “2016 through 2020”.

(b) Bureau of Indian Affairs Law Enforcement and Judicial Training.—Section 4218(b) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2451(b)) is amended by striking “2011 through 2015” and inserting “2016 through 2020”.

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SEC. 4. PROTECTION OF NATIVE CHILDREN AND TRIBAL COMMUNITIES.

Section 204 of Public Law 90–284 (25 U.S.C. 1304) is amended—

(1) in the section heading, by striking “VIOLENCE” and inserting “AND CHILD VIOLENCE AND DRUG OFFENSES”;

(2) in subsection (a)—

(A) in paragraph (1), by striking “means violence” and inserting “includes felony or misdemeanor violations of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violations occur that are”; 

(B) in paragraph (2)—

(i) by striking “means violence” and inserting “includes felony or misdemeanor violations of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violations occur that are”; and

(ii) by striking “an Indian tribe that has jurisdiction over the Indian country where the violence occurs” and inserting “the Indian tribe”;
(C) in paragraph (4), by striking “domestic violence” and inserting “tribal”;

(D) in paragraph (6)—

(i) in the paragraph heading, by striking “DOMESTIC VIOLENCE” and inserting “TRIBAL”; and

(ii) by striking “domestic violence” and inserting “tribal”;

(E) by redesignating—

(i) paragraphs (3) through (7) as paragraphs (7) through (11), respectively; and

(ii) paragraphs (1) and (2) as paragraphs (4) and (5), respectively;

(F) by inserting before paragraph (4) (as so redesignated) the following:

“(1) CAREGIVER.—The term ‘caregiver’ means—

“(A) the parent, guardian, or legal custodian of the child;

“(B) any relative of the child, including a parent, grandparent, great-grandparent, step-parent, brother, sister, stepbrother, stepsister, half-brother, or half-sister;
“(C) a person who resides or has resided regularly or intermittently in the same dwelling as the child;

“(D) a person who provides or has provided care for the child in or out of the home of the child;

“(E) any person who exercises or has exercised temporary or permanent control over the child; or

“(F) any person who temporarily or permanently supervises or has supervised the child.

“(2) CHILD.—The term ‘child’ means a person who has not attained the lesser of—

“(A) the age of 18; or

“(B) except in the case of sexual abuse, the age specified by the child protection law of the participating tribe that has jurisdiction over the Indian country where the child resides.

“(3) CHILD VIOLENCE.—The term ‘child violence’ includes felony or misdemeanor violations of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violations occur that are committed against a child by a caregiver or a person that would be subject to special tribal criminal jurisdiction if the crime was com-
mitted against the parent, legal custodian, or guardian of the child under the child protection, domestic, or family violence law of the Indian tribe.”;

(G) by inserting before paragraph (7) (as so redesignated) the following:

“(6) Drug offense.—The term ‘drug offense’ includes drug-related felony or misdemeanor violations of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violations occur.”; and

(H) by adding at the end the following:

“(12) Related conduct.—The term ‘related conduct’ means conduct committed by the defendant that occurs in connection with the exercise of special tribal criminal jurisdiction that is a violation of the criminal laws or contempt authority of the tribal court of the Indian tribe that has jurisdiction over the Indian country where the underlying offense occurred.”;

(3) in subsection (b)—

(A) by striking “domestic violence” each place it appears and inserting “tribal”; and

(B) in paragraph (4)—
(i) in subparagraph (A)(i) (as so amended), by inserting “(other than a drug offense)” before “if neither”; and

(ii) in subparagraph (B)—

(I) in the matter preceding clause (i) (as so amended), by inserting “for a crime of domestic violence or dating violence or a violation of a protection order” before “only if”; and

(II) in clause (iii), by striking “, or dating partner” and inserting “, dating partner, or caregiver”;

(4) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “domestic violence” and inserting “tribal”;

(B) in paragraph (1)—

(i) in the paragraph heading, by striking “AND DATING VIOLENCE” and inserting “, DATING VIOLENCE, AND CHILD VIOLENCE”; and

(ii) by striking “or dating violence” and inserting “, dating violence, or child violence”; and

(C) by adding at the end the following:
“(3) RELATED CONDUCT.—An act of related conduct that occurs in the Indian country of the participating tribe.

“(4) DRUG OFFENSES.—A drug offense that occurs in the Indian country of the participating tribe.”;

(5) in subsection (d), by striking “domestic violence” each place it appears and inserting “tribal”;

(6) in subsection (f)—

(A) by striking “special domestic violence” each place it appears and inserting “special tribal”;

(B) in paragraph (2), by striking “prosecutes” and all that follows through the semicolon at the end and inserting the following:

“prosecutes—

“(A) a crime of domestic violence;

“(B) a crime of dating violence;

“(C) a crime of child violence;

“(D) a drug offense;

“(E) a criminal violation of a protection order; or

“(F) a crime of related conduct;”; and
(C) in paragraph (4), by inserting “child violence, related conduct,” after “dating violence,”; and

(7) in subsection (h)—

(A) by striking “$5,000,000” and inserting “$10,000,000”; and

(B) by striking “2014 through 2018” and inserting “2016 through 2020”.

SEC. 5. REPORT.

Not later than 4 years after the date of enactment of this Act, the Assistant Secretary for Indian Affairs shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the degree of effectiveness of Federal programs that are intended to build the capacity of criminal justice systems of Indian tribes to investigate and prosecute offenses relating to illegal drugs.