

114TH CONGRESS
2D SESSION

S. 2785

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Youth and Com-
5 munity Protection Act of 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) children in Indian country should be pro-
9 tected from violence;

1 (2) tribal communities should be able to protect
2 themselves from offenders bringing illegal drugs onto
3 Indian reservations;

4 (3) violence against children and crime associ-
5 ated with illegal drugs increase the number of in-
6 stances of trauma in tribal communities, which—

7 (A) affects health outcomes;

8 (B) reduces educational attainment;

9 (C) hinders economic growth; and

10 (D) undermines public safety;

11 (4) Congress established the Indian Law and
12 Order Commission to advise the Federal Govern-
13 ment on how to improve criminal justice in Indian
14 country;

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

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

20 (B) on which the Committee on Indian Af-
21 fairs of the Senate, on February 12, 2014, held
22 an oversight hearing and received testimony;
23 and

24 (6) recognition of the inherent authority of In-
25 dian tribes to protect Native children from violence,

1 and tribal communities from illegal drugs, will re-
2 duce instances of trauma experienced by Indians.

3 **SEC. 3. EXTENSION OF AUTHORIZATIONS.**

4 (a) INDIAN ALCOHOL AND SUBSTANCE ABUSE PRE-
5 VENTION AND TREATMENT GRANTS.—Section 4206 of the
6 Indian Alcohol and Substance Abuse Prevention and
7 Treatment Act of 1986 (25 U.S.C. 2412) is amended—

8 (1) by striking “appropriate,,” each place it ap-
9 pears and inserting “appropriate,”;

10 (2) in subsection (c)(1)(A)(iv), by striking “In-
11 dians as provided under section 4228, and” and in-
12 serting “Indians; and”;

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

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

18 (b) BUREAU OF INDIAN AFFAIRS LAW ENFORCE-
19 MENT AND JUDICIAL TRAINING.—Section 4218(b) of the
20 Indian Alcohol and Substance Abuse Prevention and
21 Treatment Act of 1986 (25 U.S.C. 2451(b)) is amended
22 by striking “2011 through 2015” and inserting “2016
23 through 2020”.

1 **SEC. 4. PROTECTION OF NATIVE CHILDREN AND TRIBAL**
2 **COMMUNITIES.**

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

5 (1) in the section heading, by striking “**VIO-**
6 **LENCE**” and inserting “**AND CHILD VIOLENCE**
7 **AND DRUG OFFENSES**”;

8 (2) in subsection (a)—

9 (A) in paragraph (1), by striking “means
10 violence” and inserting “includes felony or mis-
11 demeanor violations of the criminal law of the
12 Indian tribe that has jurisdiction over the In-
13 dian country where the violations occur that
14 are”;

15 (B) in paragraph (2)—

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

22 (ii) by striking “an Indian tribe that
23 has jurisdiction over the Indian country
24 where the violence occurs” and inserting
25 “the Indian tribe”;

1 (C) in paragraph (4), by striking “domestic
2 violence” and inserting “tribal”;

3 (D) in paragraph (6)—

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

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

9 (E) by redesignating—

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

13 (ii) paragraphs (1) and (2) as para-
14 graphs (4) and (5), respectively;

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

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

19 “(A) the parent, guardian, or legal custo-
20 dian of the child;

21 “(B) any relative of the child, including a
22 parent, grandparent, great-grandparent, step-
23 parent, brother, sister, stepbrother, stepsister,
24 half-brother, or half-sister;

1 “(C) a person who resides or has resided
2 regularly or intermittently in the same dwelling
3 as the child;

4 “(D) a person who provides or has pro-
5 vided care for the child in or out of the home
6 of the child;

7 “(E) any person who exercises or has exer-
8 cised temporary or permanent control over the
9 child; or

10 “(F) any person who temporarily or per-
11 manently supervises or has supervised the child.

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

14 “(A) the age of 18; or

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

19 “(3) CHILD VIOLENCE.—The term ‘child vio-
20 lence’ includes felony or misdemeanor violations of
21 the criminal law of the Indian tribe that has juris-
22 diction over the Indian country where the violations
23 occur that are committed against a child by a care-
24 giver or a person that would be subject to special
25 tribal criminal jurisdiction if the crime was com-

1 mitted against the parent, legal custodian, or guard-
 2 ian of the child under the child protection, domestic,
 3 or family violence law of the Indian tribe.”;

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

6 “(6) DRUG OFFENSE.—The term ‘drug offense’
 7 includes drug-related felony or misdemeanor viola-
 8 tions of the criminal law of the Indian tribe that has
 9 jurisdiction over the Indian country where the viola-
 10 tions occur.”; and

11 (H) by adding at the end the following:

12 “(12) RELATED CONDUCT.—The term ‘related
 13 conduct’ means conduct committed by the defendant
 14 that occurs in connection with the exercise of special
 15 tribal criminal jurisdiction that is a violation of the
 16 criminal laws or contempt authority of the tribal
 17 court of the Indian tribe that has jurisdiction over
 18 the Indian country where the underlying offense oc-
 19 curred.”;

20 (3) in subsection (b)—

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

23 (B) in paragraph (4)—

1 (i) in subparagraph (A)(i) (as so
2 amended), by inserting “(other than a
3 drug offense)” before “if neither”; and

4 (ii) in subparagraph (B)—

5 (I) in the matter preceding clause

6 (i) (as so amended), by inserting “for
7 a crime of domestic violence or dating
8 violence or a violation of a protection
9 order” before “only if”; and

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

13 (4) in subsection (c)—

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

17 (B) in paragraph (1)—

18 (i) in the paragraph heading, by strik-
19 ing “AND DATING VIOLENCE” and insert-
20 ing “, DATING VIOLENCE, AND CHILD VIO-
21 LENCE”; and

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

25 (C) by adding at the end the following:

1 “(3) RELATED CONDUCT.—An act of related
2 conduct that occurs in the Indian country of the
3 participating tribe.

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

7 (5) in subsection (d), by striking “domestic vio-
8 lence” each place it appears and inserting “tribal”;

9 (6) in subsection (f)—

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

13 (B) in paragraph (2), by striking “pros-
14 ecutes” and all that follows through the semi-
15 colon at the end and inserting the following:

16 “prosecutes—

17 “(A) a crime of domestic violence;

18 “(B) a crime of dating violence;

19 “(C) a crime of child violence;

20 “(D) a drug offense;

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

23 “(F) a crime of related conduct;” and

1 (C) in paragraph (4), by inserting “child
2 violence, related conduct,” after “dating vio-
3 lence,”; and

4 (7) in subsection (h)—

5 (A) by striking “\$5,000,000” and inserting
6 “\$10,000,000”; and

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

9 **SEC. 5. REPORT.**

10 Not later than 4 years after the date of enactment
11 of this Act, the Assistant Secretary for Indian Affairs
12 shall submit to the Committee on Indian Affairs of the
13 Senate and the Committee on Natural Resources of the
14 House of Representatives a report describing the degree
15 of effectiveness of Federal programs that are intended to
16 build the capacity of criminal justice systems of Indian
17 tribes to investigate and prosecute offenses relating to ille-
18 gal drugs.

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