

115TH CONGRESS
1ST SESSION

S. 1870

To amend the Victims of Crime Act of 1984 to secure urgent resources vital to Indian victims of crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2017

Mr. HOEVEN (for himself, Mr. MCCAIN, Ms. HEITKAMP, Ms. CORTEZ MASTO, Mr. FRANKEN, Mr. DAINES, Mr. TESTER, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Victims of Crime Act of 1984 to secure urgent resources vital to Indian victims of crime, and for other purposes.

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 “Securing Urgent Re-
5 sources Vital to Indian Victim Empowerment Act” or the
6 “SURVIVE Act”.

7 **SEC. 2. INDIAN VICTIMS OF CRIME.**

8 (a) GRANT PROGRAM FOR INDIAN CRIME VICTIM
9 SERVICES.—The Victims of Crime Act of 1984 (34 U.S.C.

1 20101 et seq.) is amended by inserting after section
 2 1404F the following:

3 “GRANT PROGRAM FOR INDIAN CRIME VICTIM SERVICES

4 “SEC. 1404G. (a) DEFINITIONS.—In this section:

5 “(1) APPROPRIATE COMMITTEES OF CON-
 6 GRESS.—The term ‘appropriate committees of Con-
 7 gress’ means—

8 “(A) the Committee on Indian Affairs of
 9 the Senate;

10 “(B) the Subcommittee on Indian, Insular
 11 and Alaska Native Affairs of the Committee on
 12 Natural Resources of the House of Representa-
 13 tives;

14 “(C) the Committee on the Judiciary of
 15 the Senate; and

16 “(D) the Committee on the Judiciary of
 17 the House of Representatives.

18 “(2) COVERED GRANT.—The term ‘covered
 19 grant’ means a grant under subsection (c).

20 “(3) ELIGIBLE INDIAN TRIBE.—The term ‘eligi-
 21 ble Indian tribe’ means an Indian tribe that submits
 22 a written proposal for a covered grant to the Direc-
 23 tor in accordance with subsection (c)(2).

24 “(4) IMMEDIATE FAMILY MEMBER.—The term
 25 ‘immediate family member’ has the meaning given

1 the term in section 115(c) of title 18, United States
2 Code.

3 “(5) INDIAN.—The term ‘Indian’ means a
4 member of an Indian tribe.

5 “(6) INDIAN LAND.—The term ‘Indian land’
6 has the meaning given the term ‘Indian lands’ in
7 section 3 of the Native American Business Develop-
8 ment, Trade Promotion, and Tourism Act of 2000
9 (25 U.S.C. 4302).

10 “(7) INDIAN TRIBE.—The term ‘Indian tribe’
11 has the meaning given the term in section 4 of the
12 Indian Self-Determination and Education Assistance
13 Act (25 U.S.C. 5304).

14 “(8) PERSONALLY IDENTIFYING INFORMA-
15 TION.—The term ‘personally identifying information’
16 has the meaning given the term in section 40002(a)
17 of the Violence Against Women Act of 1994 (34
18 U.S.C. 12291(a)).

19 “(9) SERVICES TO VICTIMS OF CRIME.—The
20 term ‘services to victims of crime’—

21 “(A) has the meaning given the term in
22 section 1404; and

23 “(B) includes efforts that—

1 “(i) respond to the emotional, psycho-
 2 logical, or physical needs of a victim of
 3 crime;

4 “(ii) assist a victim of crime in stabi-
 5 lizing his or her life after victimization;

6 “(iii) assist a victim of crime in un-
 7 derstanding and participating in the crimi-
 8 nal justice system; or

9 “(iv) restore a measure of security
 10 and safety for a victim of crime.

11 “(10) VICTIM OF CRIME.—The term ‘victim of
 12 crime’ means an individual who has suffered direct
 13 physical, sexual, financial, or emotional harm as a
 14 result of the commission of a crime.

15 “(b) DUTIES OF THE DIRECTOR.—The Director
 16 shall—

17 “(1) administer the grant program described in
 18 subsection (c);

19 “(2) provide planning, research, training, and
 20 technical assistance to recipients of covered grants;
 21 and

22 “(3) coordinate with the Office of Tribal Jus-
 23 tice, the Indian Health Service, and the Bureau of
 24 Indian Affairs in implementing the grant program
 25 described in subsection (c).

1 “(c) GRANT PROGRAM.—

2 “(1) IN GENERAL.—On an annual basis, the
3 Director shall make grants to eligible Indian tribes
4 for the purposes of funding—

5 “(A) a program, administered by one or
6 more Indian tribes, that provides services to
7 victims of crime, which may be provided in tra-
8 ditional form or through electronic, digital, or
9 other technological formats, including—

10 “(i) services to victims of crime pro-
11 vided through subgrants to agencies or de-
12 partments of tribal governments or non-
13 profit organizations;

14 “(ii) domestic violence shelters, rape
15 crisis centers, child abuse programs, child
16 advocacy centers, and elder abuse pro-
17 grams providing services to victims of
18 crime;

19 “(iii) medical care, equipment, treat-
20 ment, and related evaluations arising from
21 the victimization, including—

22 “(I) emergency medical care and
23 evaluation, nonemergency medical
24 care and evaluation, psychological and
25 psychiatric care and evaluation, and

1 other forms of medical assistance,
2 treatment, or therapy, regardless of
3 the setting in which the services are
4 delivered;

5 “(II) mental and behavioral
6 health and crisis counseling, evalua-
7 tion, and assistance, including out-
8 patient therapy, counseling services,
9 substance abuse treatment, and other
10 forms of specialized treatment, includ-
11 ing intervention and prevention serv-
12 ices;

13 “(III) prophylactic treatment to
14 prevent an individual from contracting
15 HIV/AIDS or any other sexually
16 transmitted disease or infection; and

17 “(IV) forensic medical evidence
18 collection examinations and forensic
19 interviews of victims of crime—

20 “(aa) to the extent that
21 other funding sources are un-
22 available or insufficient; and

23 “(bb) on the condition that,
24 to the extent practicable, the ex-
25 aminers and interviewers follow

1 relevant guidelines or protocols
2 issued by the State, unit of local
3 government, or Indian tribe with
4 jurisdiction over the area in
5 which the examination or inter-
6 view is conducted;

7 “(iv) legal services, legal assistance
8 services, and legal clinics (including serv-
9 ices provided by pro bono legal clinics and
10 practitioners), the need for which arises di-
11 rectly from the victimization;

12 “(v) the training and certification of
13 service animals and therapy animals;

14 “(vi) equipment for Braille or TTY/
15 TTD machines for the deaf necessary to
16 provide services to victims of crime;

17 “(vii) restorative justice opportunities
18 that allow victims of crime to meet with
19 the perpetrators if the meetings are volun-
20 tarily agreed to by the victim of crime and
21 are for therapeutic purposes; and

22 “(viii) training and related materials,
23 including books, training manuals, and
24 training videos, for staff and service pro-

1 viders to develop skills necessary to offer
2 quality services to victims of crime;

3 “(B) development or implementation of
4 training, technical assistance, or professional
5 development that improves or enhances the
6 quality of services to victims of crime, including
7 coordination between healthcare, education, and
8 justice systems;

9 “(C) transportation of victims of crime
10 to—

11 “(i) receive services; or

12 “(ii) participate in criminal justice
13 proceedings;

14 “(D) emergency legal assistance to victims
15 of crime that is directly connected to the crime;

16 “(E) supervision of direct service providers
17 and contracts for professional or specialized
18 services that are related directly to providing
19 services to victims of crime;

20 “(F) repair and replacement of essential
21 items used during the provision of services to
22 victims of crime to contribute to and maintain
23 a healthy and safe environment for the victims;

24 “(G) transitional housing for victims of
25 crime, particularly victims who have a par-

1 ticular need for such housing and cannot safely
 2 return to previous housing, including travel,
 3 rental assistance, security deposits, utilities,
 4 and other related costs that are incidental to
 5 the relocation to transitional housing;

6 “(H) relocation of victims of crime, par-
 7 ticularly where necessary for the safety and
 8 well-being of the victim, including reasonable
 9 moving expenses, security deposits for housing,
 10 rental expenses, and utility startup costs;

11 “(I) coordination of activities that facili-
 12 tate the provision of direct services to victims of
 13 crime;

14 “(J) multi-system, inter-agency, multi-dis-
 15 ciplinary response to the needs of victims of
 16 crime; and

17 “(K) administration of the program and
 18 services described in this section.

19 “(2) ELIGIBILITY.—An Indian tribe seeking a
 20 covered grant shall, in response to a request for pro-
 21 posal, submit to the Director a written proposal for
 22 a covered grant, which shall include—

23 “(A) a description of the need for services
 24 and the mission and goals of the activity to be
 25 carried out using the grant;

1 “(B) a description of how amounts re-
2 ceived under the grant would be used;

3 “(C) the proposed annual budget for the
4 activities for each fiscal year in which amounts
5 received under the grant may be used;

6 “(D) any qualifications, certifications, or
7 licenses that may be required for individuals in-
8 volved in administering the program;

9 “(E) a certification by the Indian tribe
10 that, under the law of that Indian tribe or the
11 law of a State to which the Act of August 15,
12 1953 (67 Stat. 588, chapter 505) (commonly
13 known as ‘Public Law 280’) applies—

14 “(i) victims of crime are entitled to
15 the rights and protections described in sec-
16 tion 3771(a) of title 18, United States
17 Code, or substantially similar rights and
18 protections; and

19 “(ii) individuals who report crimes are
20 protected by law from retribution and re-
21 taliation;

22 “(F) a certification by the Indian tribe
23 that grant funds will be used to supplement and
24 not supplant other Federal, State, local, and

1 tribal funds that are used for the purposes de-
2 scribed in paragraph (1);

3 “(G) a description of any plans or agree-
4 ments to coordinate services among Federal,
5 State, local, and tribal governments; and

6 “(H) any additional information required
7 by the Director through written guidance, after
8 consultation with Indian tribes.

9 “(3) NO MATCHING REQUIREMENT.—A recipi-
10 ent or subrecipient of a covered grant shall not be
11 required to make a matching contribution for Fed-
12 eral dollars received.

13 “(4) PROHIBITED USES OF FUNDS.—A recipi-
14 ent or subrecipient of a covered grant may not use
15 the amounts of the grant for—

16 “(A) salaries, benefits, fees, furniture,
17 equipment, and other expenses of executive di-
18 rectors, board members, and other administra-
19 tors, except as specifically allowed under this
20 section;

21 “(B) lobbying and administrative advocacy;
22 and

23 “(C) fundraising activities.

24 “(5) ANNUAL REPORT.—A recipient of a cov-
25 ered grant shall, on an annual basis, submit to the

1 Director an itemized budget with a report describing
2 the purpose for which the grant was used, which
3 shall include—

4 “(A) the purpose for which grant funds
5 were obligated or spent and the amount of
6 funds obligated or spent by the recipient or sub-
7 recipient for each purpose, including, on a quar-
8 terly basis—

9 “(i) the amount of grant funds obli-
10 gated or spent by the recipient or sub-
11 recipient for administrative and operational
12 costs; and

13 “(ii) the amount of grant funds obli-
14 gated or spent by the recipient or sub-
15 recipient for direct services;

16 “(B) the number of individuals served as a
17 result of the grant;

18 “(C) a description, in the aggregate, of the
19 types of individuals served, including—

20 “(i) the alleged crime and injury in-
21 volved;

22 “(ii) whether the victim is an Indian;
23 and

24 “(iii) the age, sex, and tribal affili-
25 ation of the victim, if applicable; and

1 “(D) a description, in the aggregate, of the
 2 general nature and location of the alleged
 3 crimes involved, including—

4 “(i) whether the crime was committed
 5 on Indian land;

6 “(ii) whether the alleged perpetrator
 7 is an Indian;

8 “(iii) the disposition of the incident;
 9 and

10 “(iv) all jurisdictions involved in any
 11 disposition.

12 “(6) OBLIGATION TO REPORT FRAUD, WASTE,
 13 OR ABUSE OF GRANT FUNDS.—A recipient or sub-
 14 recipient of a covered grant shall immediately report
 15 to the Director any finding of fraud, waste, or abuse
 16 of grant funds.

17 “(d) PROTECTION OF CRIME VICTIM CONFIDEN-
 18 TIALITY AND PRIVACY.—

19 “(1) ANNUAL REPORTS.—In order to ensure
 20 the safety of victims of crime and immediate family
 21 members of victims of crime, recipients and sub-
 22 recipients of covered grants shall protect the con-
 23 fidentiality and privacy of individuals receiving serv-
 24 ices from the recipient or subrecipient.

25 “(2) NONDISCLOSURE.—

1 “(A) IN GENERAL.—Subject to paragraphs
2 (3) and (4), a recipient or subrecipient of a cov-
3 ered grant shall not disclose, reveal, or release
4 any personally identifying information collected
5 in connection with any service requested, used,
6 or denied through a program of the recipient or
7 subrecipient or require the release of personally
8 identifying information as a condition of eligi-
9 bility for the services provided by the recipient
10 or subrecipient—

11 “(i) regardless of whether the infor-
12 mation has been encoded, encrypted,
13 hashed, or otherwise protected; and

14 “(ii) subject to subparagraph (B) and
15 the condition that consent for release may
16 not be given by an abuser of the minor, an
17 abuser of a parent or guardian of a minor,
18 or an incapacitated individual, absent the
19 informed, written, reasonably time-limited
20 consent of—

21 “(I) the individual about whom
22 information is sought;

23 “(II) in the case of an emanci-
24 pated minor, the minor, and the par-
25 ent or guardian; or

1 “(III) in the case of legal inca-
2 pacity, a court-appointed guardian.

3 “(B) CERTAIN MINORS AND OTHER INDI-
4 VIDUALS.—If a minor or individual with a le-
5 gally appointed guardian may lawfully receive
6 services without the consent of a parent or
7 guardian, that minor or individual may consent
8 to the release of information under subpara-
9 graph (A)(ii) without the additional consent of
10 a parent or guardian.

11 “(3) RELEASE.—If the release of information
12 described in paragraph (2) is compelled by a statu-
13 tory or court mandate, a recipient or subrecipient of
14 a covered grant shall—

15 “(A) make reasonable attempts to provide
16 notice to victims of crime affected by the disclo-
17 sure of information; and

18 “(B) take steps necessary to protect the
19 privacy and safety of the individuals affected by
20 the release of the information.

21 “(4) INFORMATION SHARING.—A recipient or
22 subrecipient of a covered grant may share—

23 “(A) data in the aggregate that is not per-
24 sonally identifying information regarding serv-
25 ices to clients and demographics in order to

1 comply with Federal, State, tribal, or territorial
2 reporting, evaluation, or data collection require-
3 ments;

4 “(B) court-generated and law enforcement-
5 generated information contained in secure, gov-
6 ernmental registries for protection order en-
7 forcement purposes; and

8 “(C) law enforcement-generated and pros-
9 ecution-generated information necessary for law
10 enforcement and prosecution purposes.

11 “(5) STATUTORILY MANDATED REPORTS OF
12 ABUSE OR NEGLECT.—Nothing in this subsection
13 shall be construed to prohibit a recipient or sub-
14 recipient of a covered grant from reporting sus-
15 pected abuse or neglect of an individual.

16 “(6) CONGRESSIONAL OVERSIGHT.—

17 “(A) IN GENERAL.—Nothing in this sub-
18 section shall be construed to prohibit the Direc-
19 tor from disclosing grant activities authorized
20 by this section to the appropriate committees of
21 Congress.

22 “(B) REQUIREMENTS.—The Director shall
23 ensure that a disclosure under subparagraph
24 (A) protects confidentiality and omits person-
25 ally identifying information.

1 “(7) CONFIDENTIALITY ASSESSMENT AND AS-
2 SURANCES.—A recipient or subrecipient of a covered
3 grant shall document compliance with the confiden-
4 tiality and privacy requirements of this subsection.

5 “(e) OVERSIGHT AND ENFORCEMENT AUTHORITY.—

6 “(1) AUTHORITY.—The Director shall—

7 “(A) regularly monitor and review covered
8 grants awarded, which shall include evaluation
9 of quarterly financial reports for victim services
10 grants; and

11 “(B) conduct investigations and audits—

12 “(i) to ensure compliance with all ap-
13 plicable Federal law; and

14 “(ii) to prevent duplication and redun-
15 dancy in the awarding of covered grants.

16 “(2) PERFORMANCE MEASURES AND ENFORCE-
17 ABLE AGREEMENTS.—The Director shall ensure that
18 all covered grants are subject to performance meas-
19 ures and enforceable agreements that allow for thor-
20 ough program oversight.

21 “(3) COMPLIANCE REPORTS TO CONGRESS.—

22 For fiscal year 2017 and each fiscal year thereafter,
23 the Director shall submit to the appropriate commit-
24 tees of Congress an annual compliance report on all
25 covered grants awarded.

1 “(4) VIOLATIONS.—

2 “(A) IN GENERAL.—If, after reasonable
3 notice and opportunity for a hearing on the
4 record (subject to subparagraph (B)), the Di-
5 rector finds that a recipient or subrecipient of
6 a covered grant has failed to comply substan-
7 tially with any provision of this section or a
8 rule, regulation, guideline, or procedure issued
9 under this section, or an application submitted
10 in accordance with this section or the provisions
11 of any other applicable law, the Director shall—

12 “(i) terminate payments to the recipi-
13 ent;

14 “(ii) suspend payments to the recipi-
15 ent until the Director is satisfied that the
16 noncompliance has ended; or

17 “(iii) take any other action that the
18 Director determines appropriate.

19 “(B) SUBRECIPIENTS.—A subrecipient of
20 a covered grant may not request a hearing
21 under subparagraph (A) but may assist a re-
22 cipient in providing information during the
23 hearing process.

24 “(f) TIMELINES.—

1 “(1) NEGOTIATED RULEMAKING.—Not later
2 than 60 days after the date of enactment of this sec-
3 tion, the Director shall publish a notice in the Fed-
4 eral Register to initiate the negotiated rulemaking
5 described in section 3(b) of the Securing Urgent Re-
6 sources Vital to Indian Victim Empowerment Act,
7 which shall be completed not later than 180 days
8 after that publication.

9 “(2) REQUEST FOR PROPOSAL.—Not later than
10 60 days after the negotiated rulemaking described in
11 paragraph (1) is complete, the Director shall publish
12 a request for proposal in the Federal Register for
13 covered grants.

14 “(3) REQUIRED DISBURSAL.—Not later than
15 January 31 of each of the first 10 fiscal years begin-
16 ning after the date of enactment of this section, the
17 Director shall disburse competitive grants to Indian
18 tribes in accordance with this section.

19 “(g) AVAILABILITY OF GRANT FUNDS.—Any amount
20 awarded under a covered grant that remains unobligated
21 at the end of the fiscal year in which the grant is made
22 may be expended for the purpose for which the grant was
23 made at any time during the 5 succeeding fiscal years,
24 at the end of which period, any unobligated sums shall

1 remain available to the Director for award under this sec-
2 tion in the following fiscal year.

3 “(h) EFFECT.—Nothing in this section prohibits—

4 “(1) an Indian tribe from contracting for the
5 administration of a program or activity funded
6 under this section; or

7 “(2) multiple Indian tribes or tribal organiza-
8 tions from forming a consortium for any of the pur-
9 poses described in this section.

10 “(i) FUNDING.—

11 “(1) IN GENERAL.—The grant program estab-
12 lished under this section shall be carried out using
13 amounts made available under section 1402(d)(1).

14 “(2) ADMINISTRATIVE EXPENSES.—For each
15 fiscal year in which a grant is made or grant funds
16 may be obligated under this section, the Director
17 may use not more than 4 percent of the amounts
18 made available under this section for—

19 “(A) administration and management of
20 covered grants; and

21 “(B) training and technical assistance.

22 “(j) TERM.—This section shall be effective for the
23 first 10 fiscal years beginning after the date of enactment
24 of this section.”.

1 (b) FUNDING FOR GRANTS FOR TRIBAL VICTIMS OF
 2 CRIME.—Section 1402(d) of the Victims of Crime Act of
 3 1984 (34 U.S.C. 20101(d)) is amended—

4 (1) by inserting before paragraph (2) the fol-
 5 lowing:

6 “(1) For each of the 10 fiscal years beginning
 7 after the date of enactment of the Securing Urgent
 8 Resources Vital to Indian Victim Empowerment Act,
 9 5 percent of the total amount in the Fund available
 10 for obligation during a fiscal year shall be made
 11 available to the Director to make grants under sec-
 12 tion 1404G.”;

13 (2) in paragraph (2)(A), by inserting “after
 14 compliance with paragraph (1)” after “deposited in
 15 the Fund”;

16 (3) in paragraph (3)(A), in the matter pre-
 17 ceding clause (i), by striking “paragraph (2)” and
 18 inserting “paragraphs (1) and (2)”; and

19 (4) in paragraph (5)(A), by inserting “(1),” be-
 20 fore “(2)” each place that term appears.

21 **SEC. 3. REGULATIONS REGARDING INDIAN TRIBES.**

22 (a) EXISTING REGULATIONS.—Any regulation, rule,
 23 or guidance promulgated by the Director of the Office for
 24 Victims of Crime before the date of enactment of this Act
 25 shall have no force or effect with respect to section 1404G

1 of the Victims of Crime Act of 1984, as added by section
2 2.

3 (b) NEGOTIATED RULEMAKING.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this Act, the Director of
6 the Office for Victims of Crime, in consultation with
7 the Secretary of the Interior and Indian tribes (as
8 defined in section 4 of the Indian Self-Determination
9 and Education Assistance Act (25 U.S.C. 5304))
10 and through notice and comment negotiated rule-
11 making, following the provisions of subchapter III of
12 chapter 5 of title 5, United States Code (commonly
13 known as the ‘Negotiated Rulemaking Act of 1990’),
14 shall promulgate final regulations carrying out sec-
15 tion 1404G of the Victims of Crime Act of 1984, as
16 added by section 2.

17 (2) REQUIREMENTS.—The Director of the Of-
18 fice for Victims of Crime shall ensure that—

19 (A) not fewer than 2 Indian tribes from
20 each Bureau of Indian Affairs region partici-
21 pate in the consultation; and

22 (B) small, medium, and large land-based
23 Indian tribes are represented.

○