

116TH CONGRESS
1ST SESSION

S. 211

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

JANUARY 24, 2019

Mr. HOEVEN (for himself, Mr. UDALL, Mr. BARRASSO, Mr. DAINES, Ms. CORTEZ MASTO, Mr. TESTER, Ms. SMITH, and Ms. MURKOWSKI) 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 sub-
22 mits a written proposal for a covered grant to the
23 Director 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 ‘Indian tribe’ in sec-
12 tion 4 of the Indian Self-Determination and Edu-
13 cation Assistance 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) the 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) the 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) the supervision of direct service pro-
17 viders and contracts for professional or special-
18 ized services that are related directly to pro-
19 viding services to victims of crime;

20 “(F) the repair and replacement of essen-
21 tial items used during the provision of services
22 to victims of crime to contribute to and main-
23 tain a healthy and safe environment for the vic-
24 tims;

1 “(G) transitional housing for victims of
2 crime, particularly victims who have a par-
3 ticular need for such housing and cannot safely
4 return to previous housing, including travel,
5 rental assistance, security deposits, utilities,
6 and other related costs that are incidental to
7 the relocation to transitional housing;

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

13 “(I) the coordination of activities that fa-
14 cilitate the provision of direct services to victims
15 of crime;

16 “(J) a multi-system, inter-agency, multi-
17 disciplinary response to the needs of victims of
18 crime; and

19 “(K) the administration of the program
20 and services described in this section.

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

1 “(A) a description of the need for services
2 and the mission and goals of the activity to be
3 carried out using the grant;

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

6 “(C) the proposed annual budget for the
7 activities for each fiscal year in which amounts
8 received under the grant may be used;

9 “(D) any qualifications, certifications, or
10 licenses that may be required for individuals in-
11 volved in administering the program;

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

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

22 “(ii) individuals who report crimes are
23 protected by law from retribution and re-
24 taliation;

1 “(F) a certification by the Indian Tribe
2 that grant funds will be used to supplement and
3 not supplant other Federal, State, local, and
4 Tribal funds that are used for the purposes de-
5 scribed in paragraph (1);

6 “(G) a description of any plans or agree-
7 ments to coordinate services among Federal,
8 State, local, and Tribal governments; and

9 “(H) any additional information required
10 by the Director through written guidance, after
11 consultation with Indian Tribes.

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

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

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

24 “(B) lobbying and administrative advocacy;
25 and

1 “(C) fundraising activities.

2 “(5) ANNUAL REPORT.—A recipient of a cov-
3 ered grant shall, on an annual basis, submit to the
4 Director an itemized budget with a report describing
5 the purpose for which the grant was used, which
6 shall include—

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

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

16 “(ii) the amount of grant funds obli-
17 gated or spent by the recipient or sub-
18 recipient for direct services;

19 “(B) the number of individuals served as a
20 result of the grant;

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

23 “(i) the alleged crime and injury in-
24 volved;

1 “(ii) whether the victim is an Indian;

2 and

3 “(iii) the age, sex, and Tribal affili-
4 ation of the victim, if applicable; and

5 “(D) a description, in the aggregate, of the
6 general nature and location of the alleged
7 crimes involved, including—

8 “(i) whether the crime was committed
9 on Indian land;

10 “(ii) whether the alleged perpetrator
11 is an Indian;

12 “(iii) the disposition of the incident;
13 and

14 “(iv) all jurisdictions involved in any
15 disposition.

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

21 “(d) PROTECTION OF CRIME VICTIM CONFIDEN-
22 TIALITY AND PRIVACY.—

23 “(1) ANNUAL REPORTS.—In order to ensure
24 the safety of victims of crime and immediate family
25 members of victims of crime, recipients and sub-

1 recipients of covered grants shall protect the con-
2 fidentiality and privacy of individuals receiving serv-
3 ices from the recipient or subrecipient.

4 “(2) NONDISCLOSURE.—

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

15 “(i) regardless of whether the infor-
16 mation has been encoded, encrypted,
17 hashed, or otherwise protected; and

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

1 “(I) the individual about whom
2 information is sought;

3 “(II) in the case of an emanci-
4 pated minor, the minor, and the par-
5 ent or guardian; or

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

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

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

20 “(A) make reasonable attempts to provide
21 notice to victims of crime affected by the dislo-
22 sure of information; and

23 “(B) take steps necessary to protect the
24 privacy and safety of the individuals affected by
25 the release of the information.

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

3 “(A) data in the aggregate that is not per-
4 sonally identifying information regarding serv-
5 ices to clients and demographics in order to
6 comply with Federal, State, Tribal, or terri-
7 torial reporting, evaluation, or data collection
8 requirements;

9 “(B) court-generated and law enforcement-
10 generated information contained in secure gov-
11 ernmental registries for protection order en-
12 forcement purposes; and

13 “(C) law enforcement-generated and pros-
14 ecution-generated information necessary for law
15 enforcement and prosecution purposes.

16 “(5) STATUTORILY MANDATED REPORTS OF
17 ABUSE OR NEGLECT.—Nothing in this subsection
18 shall be construed to prohibit a recipient or sub-
19 recipient of a covered grant from reporting sus-
20 pected abuse or neglect of an individual.

21 “(6) CONGRESSIONAL OVERSIGHT.—

22 “(A) IN GENERAL.—Nothing in this sub-
23 section shall be construed to prohibit the Direc-
24 tor from disclosing grant activities authorized

1 by this section to the appropriate committees of
2 Congress.

3 “(B) REQUIREMENTS.—The Director shall
4 ensure that a disclosure under subparagraph
5 (A) protects confidentiality and omits person-
6 ally identifying information.

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

11 “(e) OVERSIGHT AND ENFORCEMENT AUTHORITY.—

12 “(1) AUTHORITY.—The Director shall—

13 “(A) regularly monitor and review covered
14 grants awarded, which shall include evaluation
15 of quarterly financial reports for victim services
16 grants; and

17 “(B) conduct investigations and audits—

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

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

22 “(2) PERFORMANCE MEASURES AND ENFORCE-
23 ABLE AGREEMENTS.—The Director shall ensure that
24 all covered grants are subject to performance meas-

1 ures and enforceable agreements that allow for thor-
2 ough program oversight.

3 “(3) COMPLIANCE REPORTS TO CONGRESS.—

4 For the first fiscal year beginning after the date of
5 enactment of this section and each fiscal year there-
6 after, the Director shall submit to the appropriate
7 committees of Congress an annual compliance report
8 on all covered grants awarded.

9 “(4) VIOLATIONS.—

10 “(A) IN GENERAL.—If, after reasonable
11 notice and opportunity for a hearing on the
12 record (subject to subparagraph (B)), the Di-
13 rector finds that a recipient or subrecipient of
14 a covered grant has failed to comply substan-
15 tially with any provision of this section or a
16 rule, regulation, guideline, or procedure issued
17 under this section, a commitment or certifi-
18 cation made in the written proposal submitted
19 under subsection (c)(2), or the provisions of any
20 other applicable law, the Director shall—

21 “(i) terminate payments to the recipi-
22 ent;

23 “(ii) suspend payments to the recipi-
24 ent until the Director is satisfied that the
25 noncompliance has ended; or

1 “(iii) take any other action that the
2 Director determines appropriate.

3 “(B) SUBRECIPIENTS.—A subrecipient of
4 a covered grant may not request a hearing
5 under subparagraph (A) but may assist a re-
6 cipient in providing information during the
7 hearing process.

8 “(f) TIMELINES.—

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

17 “(2) REQUEST FOR PROPOSAL.—Not later than
18 60 days after the negotiated rulemaking described in
19 paragraph (1) is complete, the Director shall publish
20 a request for proposal in the Federal Register for
21 covered grants.

22 “(3) REQUIRED DISBURSAL.—Not later than
23 January 31 of each of the first 10 fiscal years begin-
24 ning after the date of enactment of this section, the

1 Director shall disburse competitive grants to Indian
2 Tribes in accordance with this section.

3 “(g) AVAILABILITY OF GRANT FUNDS.—Any amount
4 awarded under a covered grant that remains unobligated
5 at the end of the fiscal year in which the grant is made
6 may be expended for the purpose for which the grant was
7 made at any time during the 5 succeeding fiscal years,
8 at the end of which period, any unobligated sums shall
9 remain available to the Director for award under this sec-
10 tion in the following fiscal year.

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

12 “(1) an Indian Tribe from contracting for the
13 administration of a program or activity funded
14 under this section; or

15 “(2) multiple Indian Tribes or Tribal organiza-
16 tions from forming a consortium for any of the pur-
17 poses described in this section.

18 “(i) FUNDING.—

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

22 “(2) ADMINISTRATIVE EXPENSES.—For each
23 fiscal year in which a grant is made or grant funds
24 may be obligated under this section, the Director

1 may use not more than 4 percent of the amounts
2 made available under this section for—

3 “(A) administration and management of
4 covered grants; and

5 “(B) training and technical assistance.

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

9 (b) FUNDING FOR GRANTS FOR TRIBAL VICTIMS OF
10 CRIME.—Section 1402(d) of the Victims of Crime Act of
11 1984 (34 U.S.C. 20101(d)) is amended—

12 (1) by inserting before paragraph (2) the fol-
13 lowing:

14 “(1) For each of the first 10 fiscal years begin-
15 ning after the date of enactment of the Securing Ur-
16 gent Resources Vital to Indian Victim Empowerment
17 Act, 5 percent of the total amount in the Fund
18 available for obligation during a fiscal year shall be
19 made available to the Director to make grants under
20 section 1404G.”;

21 (2) in paragraph (2)(A), by inserting “after
22 compliance with paragraph (1)” after “deposited in
23 the Fund”;

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

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

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

7 (a) **EXISTING REGULATIONS.**—Any regulation, rule,
8 or guidance promulgated by the Director of the Office for
9 Victims of Crime before the date of enactment of this Act
10 shall have no force or effect with respect to section 1404G
11 of the Victims of Crime Act of 1984, as added by section
12 2.

13 (b) **NEGOTIATED RULEMAKING.**—

14 (1) **IN GENERAL.**—Not later than 1 year after
15 the date of enactment of this Act, the Director of
16 the Office for Victims of Crime, in consultation with
17 the Secretary of the Interior and Indian Tribes (as
18 defined in section 1404G of the Victims of Crime
19 Act of 1984, as added by section 2) and through no-
20 tice and comment negotiated rulemaking, following
21 the provisions of subchapter III of chapter 5 of title
22 5, United States Code (commonly known as the ‘Ne-
23 gotiated Rulemaking Act of 1990’), shall promulgate
24 final regulations carrying out section 1404G of the

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

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

5 (A) not fewer than 2 Indian Tribes from
6 each Bureau of Indian Affairs region partici-
7 pate in the consultation; and

8 (B) small, medium, and large land-based
9 Indian Tribes are represented.

○