116TH CONGRESS
1ST SESSION
S. 2616

To provide civil and criminal jurisdiction over Alaska Natives and non-Alaska Natives for certain Indian tribes in the State of Alaska.

IN THE SENATE OF THE UNITED STATES
OCTOBER 16, 2019

Ms. Murkowski introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide civil and criminal jurisdiction over Alaska Natives and non-Alaska Natives for certain Indian tribes in the State of Alaska.

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 “Alaska Tribal Public Safety Empowerment Act”.

SECTION 2. FINDINGS.

Congress finds that—

(1) according to the report of the Indian Law and Order Commission established by section 15 of
the Indian Law Enforcement Reform Act (25 U.S.C. 2812), Alaska Native women—

(A) are overrepresented in the domestic violence victim population by 250 percent;

(B) in the State of Alaska, comprise—

(i) 19 percent of the population of the State; but

(ii) 47 percent of reported rape victims in the State; and

(C) as compared to the populations of other Indian tribes, suffer the highest rates of domestic and sexual violence;

(2) most Alaska Native villages are located in remote areas that—

(A) are often inaccessible by road; and

(B) have no local law enforcement presence;

(3) the Commission referred to in paragraph (1)—

(A) determined that the Alaska Department of Public Safety—

(i) has primary responsibility for law enforcement in rural Alaska; but

(ii) provides only 1 to 1.4 field officers per 1,000,000 acres; and
(B) recommended that “devolving author-
ity to Alaska Native communities is essential
for addressing local crime. Their governments
are best positioned to effectively arrest, pros-
ecute, and punish, and they should have the au-
thority to do so, or to work out voluntary agree-
ments with each other, and with local govern-
ments and the State on mutually beneficial
terms”; and

(4) the unique legal relationship of the United
States to Indian tribes creates a Federal trust re-
sponsibility to assist Tribal governments in safe-
guarding the lives of Indian women.

SEC. 3. DEFINITIONS.

In this Act:

(1) ALASKA NATIVE.—The term “Alaska Na-
tive” means an individual who—

(A) is a member of an Indian tribe;

(B) is eligible for membership in an Indian
tribe; or

(C) is regarded as an Alaska Native by the
community in which the individual resides.

(2) INDIAN TRIBE.—The term “Indian tribe”
has the meaning given the term in section 102 of the

(3) STATE.—The term “State” means the State of Alaska.

(4) VILLAGE.—The term “village” means the Alaska Native Village Statistical Area covering all or any portion of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

SEC. 4. TRIBAL JURISDICTION IN ALASKA.

(a) ALASKA NATIVES.—Subject to title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) (commonly known as the “Indian Civil Rights Act of 1968”), and regardless of the holder of title in and to any applicable land, Congress recognizes and affirms that any Indian tribe in the State occupying a village may exercise, as part of the inherent authority of the Indian tribe—

(1) criminal and civil jurisdiction over all Alaska Natives present in the village; and

(2) full civil jurisdiction within the village—

(A) to issue and enforce protection orders involving any individual, including the authority to enforce such an order through a civil contempt proceeding;
(B) to exclude violators from the village;
and

(C) to use other appropriate mechanisms
to address matters arising anywhere in the vil-
lage that are the subject of protection orders.

(b) PILOT PROGRAM FOR JURISDICTION OVER INDIVIDUALS WHO ARE NOT ALASKA NATIVES.—

(1) ESTABLISHMENT.—Subject to title II of the
(commonly known as the “Indian Civil Rights Act of
1968”), and regardless of the holder of title in and
to any applicable land, there is established a pilot
program under which the Attorney General shall se-
lect for each calendar year not more than five Indian
tribes selected under paragraph (2) to exercise the
civil and criminal jurisdiction described in paragraph
(5) over all individuals present in the village occu-
pied by the Indian tribe who are not subject to the
jurisdiction of the Indian tribe under subsection
(a)(1).

(2) SELECTION OF QUALIFYING INDIAN TRIBES.—The Attorney General, in consultation
with the Secretary of the Interior, shall select Indian
tribes to participate in the pilot program established
by paragraph (1), subject to—
(A) the condition that preference shall be given to Indian tribes occupying villages—

(i) the populations of which are predominantly Alaska Native; or

(ii) that lack a permanent State law enforcement presence; and

(B) such other criteria as the Attorney General considers to be appropriate to achieve the purposes of this Act.

(3) QUALIFYING INTERTRIBAL CONSORTIA.— Any two or more qualifying Indian tribes, or a tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) that is acting on behalf of two or more qualifying Indian tribes—

(A) may elect to participate jointly in the pilot program under this subsection by providing shared resources to carry out the purposes of the pilot program; and

(B) on making an election pursuant to subparagraph (A), shall be considered to be a single Indian tribe for purposes of the maximum number of participants in the pilot program under paragraphs (1) and (4).

(4) MAXIMUM NUMBER OF PARTICIPANTS.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General may select not more than 30 Indian tribes to participate in the pilot program under this subsection.

(B) EXCEPTION.—The limitation under subparagraph (A) shall not apply if the Attorney General submits to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a notice of the intention to select any additional Indian tribe by not later than the date that is 180 days before the date of selection.

(5) DESCRIPTION OF JURISDICTION.—Congress recognizes and affirms that an Indian tribe selected to participate in the pilot program under this subsection may exercise the inherent authority of the Indian tribe over all individuals described in paragraph (1) through—

(A) general civil jurisdiction; and

(B) subject to paragraph (6), criminal jurisdiction with respect to (as defined in applicable Tribal law)—

(i) the crimes of—

(I) domestic violence;
(II) dating violence;

(III) violation of a protective order;

(IV) sexual violence;

(V) stalking;

(VI) sex trafficking;

(VII) obstruction of justice; and

(VIII) assault of a law enforcement or correctional officer;

(ii) any crime against a child; and

(iii) any crime involving the possession, transportation, or sale of alcohol or drugs where that possession, transportation, or sale is prohibited by an applicable Federal, State, or Tribal law.

(6) Rights of Defendants.—In exercising the jurisdiction described in paragraph (5)(B), an Indian tribe participating in the pilot program under this subsection shall provide to each defendant all rights described in section 204(d) of the Civil Rights Act of 1968 (25 U.S.C. 1304(d)) (commonly known as the “Indian Civil Rights Act of 1968”).

(e) Memoranda of Agreement.—An Indian tribe participating in the pilot program under subsection (b), the State, the Attorney General, and the Secretary of the
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Interior may enter into such memoranda of agreement as are necessary and appropriate—

(1) to coordinate respective law enforcement activities;

(2) to share equipment and other resources;

(3) to establish cross-deputization arrangements;

(4) to coordinate appropriate training activities; and

(5) to address any other matters that will facilitate the successful implementation of the pilot program.

(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of the Interior, shall submit to Congress a report describing the results of the pilot program under subsection (b), including legislative recommendations to facilitate improved law enforcement in villages.

SEC. 5. SPECIAL FULL FAITH AND CREDIT FOR PROTECTION ORDERS.

Section 2265(e) of title 18, United States Code, is amended—

(1) by striking “For purposes” and inserting the following:
“(1) IN GENERAL.—For purposes”; and

(2) by adding at the end the following:

“(2) APPLICABILITY TO ALASKA.—Paragraph (1) applies to all Indian tribes in the State of Alaska, regardless of—

“(A) the definition of the term ‘Indian country’ contained in section 1151; or

“(B) the population of the Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) occupied by such an Indian tribe.”.

SEC. 6. EFFECT.

Nothing in this Act—

(1) diminishes the jurisdiction of the State or the Federal Government, as in effect on the date of enactment of this Act, over any criminal or civil matter;

(2) creates or eliminates any area of Indian country (as defined in section 1151 of title 18, United States Code) in the State; or

(3) diminishes any authority of an Indian tribe in the State under any other law, including—

(A) the Violence Against Women Act of 1994 (34 U.S.C. 12291 et seq.); and
(B) the Violence Against Women Reau-
thorization Act of 2013 (Public Law 113–4; 34
U.S.C. 10101 note) and the amendments made
by that Act.