

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.

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 “Alaska Tribal Public
5 Safety Empowerment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) according to the report of the Indian Law
9 and Order Commission established by section 15 of

1 the Indian Law Enforcement Reform Act (25 U.S.C.
2 2812), Alaska Native women—

3 (A) are overrepresented in the domestic vi-
4 olence victim population by 250 percent;

5 (B) in the State of Alaska, comprise—

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

8 (ii) 47 percent of reported rape vic-
9 tims in the State; and

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

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

15 (A) are often inaccessible by road; and

16 (B) have no local law enforcement pres-
17 ence;

18 (3) the Commission referred to in paragraph
19 (1)—

20 (A) determined that the Alaska Depart-
21 ment of Public Safety—

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

24 (ii) provides only 1 to 1.4 field officers
25 per 1,000,000 acres; and

1 (B) recommended that “devolving author-
2 ity to Alaska Native communities is essential
3 for addressing local crime. Their governments
4 are best positioned to effectively arrest, pros-
5 ecute, and punish, and they should have the au-
6 thority to do so, or to work out voluntary agree-
7 ments with each other, and with local govern-
8 ments and the State on mutually beneficial
9 terms”; and

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

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

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

18 (A) is a member of an Indian tribe;

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

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

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

1 Federally Recognized Indian Tribe List Act of 1994
2 (25 U.S.C. 5130).

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

5 (4) VILLAGE.—The term “village” means the
6 Alaska Native Village Statistical Area covering all or
7 any portion of a Native village (as defined in section
8 3 of the Alaska Native Claims Settlement Act (43
9 U.S.C. 1602)).

10 **SEC. 4. TRIBAL JURISDICTION IN ALASKA.**

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

18 (1) criminal and civil jurisdiction over all Alas-
19 ka Natives present in the village; and

20 (2) full civil jurisdiction within the village—

21 (A) to issue and enforce protection orders
22 involving any individual, including the authority
23 to enforce such an order through a civil con-
24 tempt proceeding;

1 (B) to exclude violators from the village;
2 and

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

6 (b) PILOT PROGRAM FOR JURISDICTION OVER INDI-
7 VIDUALS WHO ARE NOT ALASKA NATIVES.—

8 (1) ESTABLISHMENT.—Subject to title II of the
9 Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.)
10 (commonly known as the “Indian Civil Rights Act of
11 1968”), and regardless of the holder of title in and
12 to any applicable land, there is established a pilot
13 program under which the Attorney General shall se-
14 lect for each calendar year not more than five Indian
15 tribes selected under paragraph (2) to exercise the
16 civil and criminal jurisdiction described in paragraph
17 (5) over all individuals present in the village occu-
18 pied by the Indian tribe who are not subject to the
19 jurisdiction of the Indian tribe under subsection
20 (a)(1).

21 (2) SELECTION OF QUALIFYING INDIAN
22 TRIBES.—The Attorney General, in consultation
23 with the Secretary of the Interior, shall select Indian
24 tribes to participate in the pilot program established
25 by paragraph (1), subject to—

1 (A) the condition that preference shall be
2 given to Indian tribes occupying villages—

3 (i) the populations of which are pre-
4 dominantly Alaska Native; or

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

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

10 (3) QUALIFYING INTERTRIBAL CONSORTIA.—

11 Any two or more qualifying Indian tribes, or a tribal
12 organization (as defined in section 4 of the Indian
13 Self-Determination and Education Assistance Act
14 (25 U.S.C. 5304)) that is acting on behalf of two or
15 more qualifying Indian tribes—

16 (A) may elect to participate jointly in the
17 pilot program under this subsection by pro-
18 viding shared resources to carry out the pur-
19 poses of the pilot program; and

20 (B) on making an election pursuant to
21 subparagraph (A), shall be considered to be a
22 single Indian tribe for purposes of the max-
23 imum number of participants in the pilot pro-
24 gram under paragraphs (1) and (4).

25 (4) MAXIMUM NUMBER OF PARTICIPANTS.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Attorney General may
3 select not more than 30 Indian tribes to partici-
4 pate in the pilot program under this subsection.

5 (B) EXCEPTION.—The limitation under
6 subparagraph (A) shall not apply if the Attor-
7 ney General submits to the Committee on In-
8 dian Affairs of the Senate and the Committee
9 on Natural Resources of the House of Rep-
10 resentatives a notice of the intention to select
11 any additional Indian tribe by not later than
12 the date that is 180 days before the date of se-
13 lection.

14 (5) DESCRIPTION OF JURISDICTION.—Congress
15 recognizes and affirms that an Indian tribe selected
16 to participate in the pilot program under this sub-
17 section may exercise the inherent authority of the
18 Indian tribe over all individuals described in para-
19 graph (1) through—

20 (A) general civil jurisdiction; and

21 (B) subject to paragraph (6), criminal ju-
22 risdiction with respect to (as defined in applica-
23 ble Tribal law)—

24 (i) the crimes of—

25 (I) domestic violence;

- 1 (II) dating violence;
2 (III) violation of a protective
3 order;
4 (IV) sexual violence;
5 (V) stalking;
6 (VI) sex trafficking;
7 (VII) obstruction of justice; and
8 (VIII) assault of a law enforce-
9 ment or correctional officer;
10 (ii) any crime against a child; and
11 (iii) any crime involving the posses-
12 sion, transportation, or sale of alcohol or
13 drugs where that possession, transpor-
14 tation, or sale is prohibited by an applica-
15 ble Federal, State, or Tribal law.

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

23 (c) MEMORANDA OF AGREEMENT.—An Indian tribe
24 participating in the pilot program under subsection (b),
25 the State, the Attorney General, and the Secretary of the

1 Interior may enter into such memoranda of agreement as
2 are necessary and appropriate—

3 (1) to coordinate respective law enforcement ac-
4 tivities;

5 (2) to share equipment and other resources;

6 (3) to establish cross-deputization arrange-
7 ments;

8 (4) to coordinate appropriate training activities;
9 and

10 (5) to address any other matters that will facili-
11 tate the successful implementation of the pilot pro-
12 gram.

13 (d) REPORT TO CONGRESS.—Not later than 5 years
14 after the date of enactment of this Act, the Attorney Gen-
15 eral, in consultation with the Secretary of the Interior,
16 shall submit to Congress a report describing the results
17 of the pilot program under subsection (b), including legis-
18 lative recommendations to facilitate improved law enforce-
19 ment in villages.

20 **SEC. 5. SPECIAL FULL FAITH AND CREDIT FOR PROTEC-**
21 **TION ORDERS.**

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

24 (1) by striking “For purposes” and inserting
25 the following:

1 “(1) IN GENERAL.—For purposes”; and

2 (2) by adding at the end the following:

3 “(2) APPLICABILITY TO ALASKA.—Paragraph

4 (1) applies to all Indian tribes in the State of Alas-
5 ka, regardless of—

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

8 “(B) the population of the Native village
9 (as defined in section 3 of the Alaska Native
10 Claims Settlement Act (43 U.S.C. 1602)) occu-
11 pied by such an Indian tribe.”.

12 **SEC. 6. EFFECT.**

13 Nothing in this Act—

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

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

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

23 (A) the Violence Against Women Act of
24 1994 (34 U.S.C. 12291 et seq.); and

1 (B) the Violence Against Women Reau-
2 thorization Act of 2013 (Public Law 113–4; 34
3 U.S.C. 10101 note) and the amendments made
4 by that Act.

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