S. 290

To protect Native children and promote public safety in Indian country.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2019

Mr. UDALL (for himself, Ms. MURKOWSKI, and Ms. SMITH) 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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native Youth and Tribal Officer Protection Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) American Indians and Alaska Natives are 2.5 times more likely to experience violent crimes
and at least 2 times more likely to experience rape or sexual assault crimes.

(2) The vast majority of American Indian and Alaska Native victims, 96 percent of female and 89 percent of male victims, report being victimized by a non-Indian.

(3) According to a 2010 Government Accountability Office report, United States Attorneys declined to prosecute nearly 52 percent of violent crimes that occur in Indian country.

(4) More than 4 in 5 American Indian and Alaska Native women have experienced violence in their lifetime.

(5) According to the Centers for Disease Control and Prevention, homicide is the third leading cause of death among American Indian and Alaska Native women between 10 and 24 years of age and the fifth leading cause of death for American Indian and Alaska Native women between 25 and 34 years of age.

(6) On some reservations, American Indian women are murdered at more than 10 times the national average.

(7) Tribal prosecutors report that the majority of domestic violence cases involve children either as
witnesses or victims, and the Department of Justice reports that American Indian and Alaska Native children suffer exposure to violence at some of the highest rates in the United States.

(8) Childhood exposure to violence has immediate and long term effects, including increased rates of altered neurological development, poor physical and mental health, poor school performance, substance abuse, and overrepresentation in the juvenile justice system.

(9) Violence against children and crimes associated with dating violence and domestic violence increase the number of instances of trauma in Tribal communities, which—

(A) affects health outcomes;

(B) reduces educational attainment;

(C) hinders economic growth; and

(D) undermines public safety.

(10) Domestic violence calls are among the most dangerous calls that law enforcement receives, and the Federal Bureau of Investigation’s Uniform Crime Report shows that police officers, including Tribal police officers, are assaulted when responding to disturbance calls more often than under any other circumstances.
The complicated jurisdictional structure in Indian country—

(A) requires a high degree of commitment and cooperation among Tribal, Federal, and State law enforcement officials; and

(B) when that cooperation breaks down, results in a significant negative impact on the ability to provide public safety to Indian communities.

The Indian Law and Order Commission, established by Congress to review Federal criminal justice policies and practices in Indian country, issued a report in 2013 entitled “A Roadmap for Making Native America Safer” that recommends the restoration of the inherent authority of Tribal courts.

Restoring and enhancing local, Tribal capacity to address violent crimes provides for greater local control, safety, accountability, and transparency.

Tribal communities should be able to protect themselves from dating violence, domestic violence, child violence, and violence committed against members of the Tribal justice system.
SEC. 3. PROTECTION OF NATIVE CHILDREN AND TRIBAL COMMUNITIES.

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

(1) in the section heading, by striking “DOMESTIC VIOLENCE” and inserting “DOMESTIC VIOLENCE, CHILD VIOLENCE, AND VIOLENCE AGAINST LAW ENFORCEMENT OFFICERS”;

(2) in subsection (a)—

(A) in paragraph (1), by striking “means violence” and inserting “means covered conduct”;

(B) in paragraph (2)—

(i) by striking “means violence” and inserting “means covered conduct”; and

(ii) by striking “where the violence occurs” and inserting “where the covered conduct occurs”;

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

(D) in paragraph (6)—

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

(ii) by striking “domestic violence” and inserting “tribal”;
(E) by redesignating paragraphs (6) and (7) as paragraphs (12) and (13), respectively;

(F) by redesignating paragraphs (1) through (5) as paragraphs (6) through (10), respectively;

(G) by inserting before paragraph (6) (as redesignated by subparagraph (F)) the following:

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

“(A) the parent, guardian, or legal custodian of the child;

“(B) the spouse or intimate partner of a parent, guardian, or legal custodian of the child;

“(C) any relative of the child, including a parent, grandparent, great-grandparent, step-parent, brother, sister, stepbrother, stepsister, half-brother, or half-sister;

“(D) a person who resides or has resided regularly or intermittently in the same dwelling as the child;

“(E) a person who provides or has provided care for the child in or out of the home of the child;
“(F) any person who exercises or has exercised temporary or permanent control over the child; or

“(G) any person who temporarily or permanently supervises or has supervised the child.

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

“(A) the age of 18; or

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

“(3) CHILD VIOLENCE.—The term ‘child violence’ means covered conduct committed against a child by a caregiver of the child.

“(4) COVERED CONDUCT.—The term ‘covered conduct’ means conduct that—

“(A) involves the use, attempted use, or threatened use of physical force against the person or property of another; and

“(B) violates the criminal law of the Indian tribe that has jurisdiction over the Indian country where the conduct occurs.

“(5) COVERED INDIVIDUAL.—The term ‘covered individual’ means an officer or employee of an
Indian tribe, or an individual authorized to act for
or on behalf of an Indian tribe or serving an Indian
tribe, who is—

“(A) authorized under law to—

“(i) engage in or supervise the preven-
tion, detection, investigation, arrest, pre-
trial detention, prosecution, or adjudication
of an offense or the sentencing, including
the probation, parole, incarceration, or re-
habilitation, of an individual; or

“(ii) serve as a probation or pretrial
services officer; and

“(B) carrying out an activity described in
paragraph (11)(C).”; and

(H) by inserting after paragraph (10) (as
redesignated by subparagraph (F)) the fol-
lowing:

“(11) RELATED CONDUCT.—The term ‘related
conduct’ means a violation of the criminal law of an
Indian tribe that is committed—

“(A) against a covered individual;

“(B) by a person—

“(i) who is subject to special tribal
criminal jurisdiction; and
“(ii) has committed criminal conduct that falls into one or more of the categories described in paragraphs (1) and (2) of subsection (c); and

“(C) in the course of resisting or interfering with the prevention, detection, investigation, arrest, pretrial detention, prosecution, adjudication, or sentencing, including the probation, parole, incarceration, or rehabilitation, of that person relating to that criminal conduct.”;

(3) in subsection (b)—

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

(B) in paragraph (4)(B)(iii), in the matter preceding subclause (I), by striking “, or dating partner” and inserting “, dating partner, or caregiver”;

(4) in subsection (c)—

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

(B) in paragraph (1)—

(i) in the paragraph heading, by striking “AND DATING VIOLENCE” and inserting “AND DATING VIOLENCE.”
ing “, DATING VIOLENCE, AND CHILD VIO-
LENCE”; and

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

(C) by adding at the end the following:

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

(5) in subsection (d), by striking “domestic vio-

cence” each place it appears and inserting “tribal”;

(6) in subsection (f)—

(A) by striking “special domestic violence”

each place it appears and inserting “special
tribal”;

(B) in paragraph (2), by striking “pros-

cutes” and all that follows through the semi-
colon at the end and inserting the following:

“prosecutes—

“(A) a crime of domestic violence;

“(B) a crime of dating violence;

“(C) a crime of child violence;

“(D) a criminal violation of a protection
order; or

“(E) a crime of related conduct.”; and
(C) in paragraph (4), by inserting "child violence, related conduct," after "dating violence,"; and

(7) in subsection (h), by striking "2014 through 2018" and inserting "2020 through 2024".

SEC. 4. INCREASED INTERAGENCY COORDINATION.

(a) In General.—The Secretary of the Interior and the Secretary of Health and Human Services (referred to in this section as the "Secretaries") shall coordinate with the Attorney General to ensure, to the maximum extent practicable, that Federal programs to support Tribal justice systems and to support provision of victim services for Indians are working effectively together to serve the needs of Indian tribes and Indians (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).

(b) Coordination of Federal Indian Facilities With National Domestic Violence Hotline Grantees.—The Secretaries shall ensure that information for contacting any toll-free telephone hotline operated by recipients of a grant authorized by section 313 of the Family Violence Protective Services Act (42 U.S.C. 10413), is posted and readily visible in each publicly accessible Federal facility utilized by—

(1) the Indian Health Services;
(2) the Bureau of Indian Affairs; or

(3) the Bureau of Indian Education.

(c) COORDINATION ON TRAINING FEDERAL INDIAN PROGRAM EMPLOYEES TO RECOGNIZE AND RESPOND TO DOMESTIC VIOLENCE.—The Secretaries (acting through the Assistant Secretary for Indian Affairs, the Director of the Bureau of Indian Education, and the Director of the Indian Health Service) shall coordinate with the Director of the Office on Violence Against Women of the Department of Justice and the Associate Commissioner for the Family and Youth Services Bureau of the Department of Health and Human Services to ensure that training materials on recognizing and responding to domestic violence are available to Tribal and Federal employees of—

(1) the Indian Health Services;

(2) the Bureau of Indian Affairs; and

(3) the Bureau of Indian Education.

SEC. 5. REPORT.

(a) IN GENERAL.—The Secretary of the Interior (acting through the Assistant Secretary for Indian Affairs) and the Secretary of Health and Human Services (acting through the Director of the Indian Health Service) shall jointly submit a report to—

(1) the Committee on Indian Affairs of the Senate; and
(2) the Committee on Natural Resources of the House of Representatives.

(b) CONTENTS OF THE REPORT.—The report required under subsection (a) shall include a description of the degree of effectiveness of—

(1) Federal programs that are intended to build the capacity of criminal justice systems of Indian tribes to investigate and prosecute offenses relating to dating violence, domestic violence, child violence, and related conduct (as defined in section 204 of Public Law 90–284 (25 U.S.C. 1304), as amended by section 3(2));

(2) the required coordination activities required under section 4, including compliance with the posting of domestic violence victim service access information required under section 4(b); and

(3) the interagency employee training material development required under section 4(c).

(c) TIMING.—The Secretary of the Interior and the Secretary of Health and Human Services shall submit the report required under subsection (a) by not later than 4 years after the date of enactment of this Act.