

116TH CONGRESS  
1ST SESSION

# S. 290

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

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## 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

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## A BILL

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

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 “Native Youth and  
5       Tribal Officer Protection Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) American Indians and Alaska Natives are  
9       2.5 times more likely to experience violent crimes

1 and at least 2 times more likely to experience rape  
2 or sexual assault crimes.

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

7 (3) According to a 2010 Government Account-  
8 ability Office report, United States Attorneys de-  
9 clined to prosecute nearly 52 percent of violent  
10 crimes that occur in Indian country.

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

14 (5) According to the Centers for Disease Con-  
15 trol and Prevention, homicide is the third leading  
16 cause of death among American Indian and Alaska  
17 Native women between 10 and 24 years of age and  
18 the fifth leading cause of death for American Indian  
19 and Alaska Native women between 25 and 34 years  
20 of age.

21 (6) On some reservations, American Indian  
22 women are murdered at more than 10 times the na-  
23 tional average.

24 (7) Tribal prosecutors report that the majority  
25 of domestic violence cases involve children either as

1 witnesses or victims, and the Department of Justice  
2 reports that American Indian and Alaska Native  
3 children suffer exposure to violence at some of the  
4 highest rates in the United States.

5 (8) Childhood exposure to violence has imme-  
6 diate and long term effects, including increased rates  
7 of altered neurological development, poor physical  
8 and mental health, poor school performance, sub-  
9 stance abuse, and overrepresentation in the juvenile  
10 justice system.

11 (9) Violence against children and crimes associ-  
12 ated with dating violence and domestic violence in-  
13 crease the number of instances of trauma in Tribal  
14 communities, which—

15 (A) affects health outcomes;

16 (B) reduces educational attainment;

17 (C) hinders economic growth; and

18 (D) undermines public safety.

19 (10) Domestic violence calls are among the  
20 most dangerous calls that law enforcement receives,  
21 and the Federal Bureau of Investigation's Uniform  
22 Crime Report shows that police officers, including  
23 Tribal police officers, are assaulted when responding  
24 to disturbance calls more often than under any other  
25 circumstances.

1           (11) The complicated jurisdictional structure in  
2 Indian country—

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

6           (B) when that cooperation breaks down,  
7 results in a significant negative impact on the  
8 ability to provide public safety to Indian com-  
9 munities.

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

17          (13) Restoring and enhancing local, Tribal ca-  
18 pacity to address violent crimes provides for greater  
19 local control, safety, accountability, and trans-  
20 parency.

21          (14) Tribal communities should be able to pro-  
22 tect themselves from dating violence, domestic vio-  
23 lence, child violence, and violence committed against  
24 members of the Tribal justice system.

1 **SEC. 3. PROTECTION OF NATIVE CHILDREN AND TRIBAL**  
 2 **COMMUNITIES.**

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

5 (1) in the section heading, by striking “**DO-**  
 6 **MESTIC VIOLENCE**” and inserting “**DOMESTIC**  
 7 **VIOLENCE, CHILD VIOLENCE, AND VIOLENCE**  
 8 **AGAINST LAW ENFORCEMENT OFFICERS**”;

9 (2) in subsection (a)—

10 (A) in paragraph (1), by striking “means  
 11 violence” and inserting “means covered con-  
 12 duct”;

13 (B) in paragraph (2)—

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

16 (ii) by striking “where the violence oc-  
 17 curs” and inserting “where the covered  
 18 conduct occurs”;

19 (C) in paragraph (4), by striking “domes-  
 20 tic violence” and inserting “tribal”;

21 (D) in paragraph (6)—

22 (i) in the paragraph heading, by strik-  
 23 ing “DOMESTIC VIOLENCE” and inserting  
 24 “TRIBAL”; and

25 (ii) by striking “domestic violence”  
 26 and inserting “tribal”;

1 (E) by redesignating paragraphs (6) and  
 2 (7) as paragraphs (12) and (13), respectively;

3 (F) by redesignating paragraphs (1)  
 4 through (5) as paragraphs (6) through (10), re-  
 5 spectively;

6 (G) by inserting before paragraph (6) (as  
 7 redesignated by subparagraph (F)) the fol-  
 8 lowing:

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

11 “(A) the parent, guardian, or legal custo-  
 12 dian of the child;

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

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

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

23 “(E) a person who provides or has pro-  
 24 vided care for the child in or out of the home  
 25 of the child;

1           “(F) any person who exercises or has exer-  
 2           cised temporary or permanent control over the  
 3           child; or

4           “(G) any person who temporarily or per-  
 5           manently supervises or has supervised the child.

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

8           “(A) the age of 18; or

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

13          “(3) CHILD VIOLENCE.—The term ‘child vio-  
 14          lence’ means covered conduct committed against a  
 15          child by a caregiver of the child.

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

18          “(A) involves the use, attempted use, or  
 19          threatened use of physical force against the per-  
 20          son or property of another; and

21          “(B) violates the criminal law of the In-  
 22          dian tribe that has jurisdiction over the Indian  
 23          country where the conduct occurs.

24          “(5) COVERED INDIVIDUAL.—The term ‘cov-  
 25          ered individual’ means an officer or employee of an

1 Indian tribe, or an individual authorized to act for  
 2 or on behalf of an Indian tribe or serving an Indian  
 3 tribe, who is—

4 “(A) authorized under law to—

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

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

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

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

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

21 “(A) against a covered individual;

22 “(B) by a person—

23 “(i) who is subject to special tribal  
 24 criminal jurisdiction; and

1                   “(ii) has committed criminal conduct  
 2                   that falls into one or more of the cat-  
 3                   egories described in paragraphs (1) and  
 4                   (2) of subsection (c); and

5                   “(C) in the course of resisting or inter-  
 6                   fering with the prevention, detection, investiga-  
 7                   tion, arrest, pretrial detention, prosecution, ad-  
 8                   judication, or sentencing, including the proba-  
 9                   tion, parole, incarceration, or rehabilitation, of  
 10                  that person relating to that criminal conduct.”;  
 11                  (3) in subsection (b)—

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

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

18                 (4) in subsection (c)—

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

22                 (B) in paragraph (1)—

23                         (i) in the paragraph heading, by strik-  
 24                         ing “AND DATING VIOLENCE” and insert-

1 ing “, DATING VIOLENCE, AND CHILD VIO-  
 2 LENCE”; and

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

6 (C) by adding at the end the following:

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

10 (5) in subsection (d), by striking “domestic vio-  
 11 lence” each place it appears and inserting “tribal”;

12 (6) in subsection (f)—

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

16 (B) in paragraph (2), by striking “pros-  
 17 ecutes” and all that follows through the semi-  
 18 colon at the end and inserting the following:

19 “prosecutes—

20 “(A) a crime of domestic violence;

21 “(B) a crime of dating violence;

22 “(C) a crime of child violence;

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

25 “(E) a crime of related conduct;”; and

1 (C) in paragraph (4), by inserting “child  
 2 violence, related conduct,” after “dating vio-  
 3 lence,”; and

4 (7) in subsection (h), by striking “2014  
 5 through 2018” and inserting “2020 through 2024”.

6 **SEC. 4. INCREASED INTERAGENCY COORDINATION.**

7 (a) IN GENERAL.—The Secretary of the Interior and  
 8 the Secretary of Health and Human Services (referred to  
 9 in this section as the “Secretaries”) shall coordinate with  
 10 the Attorney General to ensure, to the maximum extent  
 11 practicable, that Federal programs to support Tribal jus-  
 12 tice systems and to support provision of victim services  
 13 for Indians are working effectively together to serve the  
 14 needs of Indian tribes and Indians (as such terms are de-  
 15 fined in section 4 of the Indian Self-Determination and  
 16 Education Assistance Act (25 U.S.C. 5304)).

17 (b) COORDINATION OF FEDERAL INDIAN FACILITIES  
 18 WITH NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT-  
 19 EES.—The Secretaries shall ensure that information for  
 20 contacting any toll-free telephone hotline operated by re-  
 21 cipients of a grant authorized by section 313 of the Family  
 22 Violence Protective Services Act (42 U.S.C. 10413), is  
 23 posted and readily visible in each publicly accessible Fed-  
 24 eral facility utilized by—

25 (1) the Indian Health Services;

1 (2) the Bureau of Indian Affairs; or

2 (3) the Bureau of Indian Education.

3 (c) COORDINATION ON TRAINING FEDERAL INDIAN  
 4 PROGRAM EMPLOYEES TO RECOGNIZE AND RESPOND TO  
 5 DOMESTIC VIOLENCE.—The Secretaries (acting through  
 6 the Assistant Secretary for Indian Affairs, the Director  
 7 of the Bureau of Indian Education, and the Director of  
 8 the Indian Health Service) shall coordinate with the Direc-  
 9 tor of the Office on Violence Against Women of the De-  
 10 partment of Justice and the Associate Commissioner for  
 11 the Family and Youth Services Bureau of the Department  
 12 of Health and Human Services to ensure that training ma-  
 13 terials on recognizing and responding to domestic violence  
 14 are available to Tribal and Federal employees of—

15 (1) the Indian Health Services;

16 (2) the Bureau of Indian Affairs; and

17 (3) the Bureau of Indian Education.

18 **SEC. 5. REPORT.**

19 (a) IN GENERAL.—The Secretary of the Interior  
 20 (acting through the Assistant Secretary for Indian Af-  
 21 fairs) and the Secretary of Health and Human Services  
 22 (acting through the Director of the Indian Health Service)  
 23 shall jointly submit a report to—

24 (1) the Committee on Indian Affairs of the Sen-  
 25 ate; and

1           (2) the Committee on Natural Resources of the  
2       House of Representatives.

3       (b) CONTENTS OF THE REPORT.—The report re-  
4       quired under subsection (a) shall include a description of  
5       the degree of effectiveness of—

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

13          (2) the required coordination activities required  
14      under section 4, including compliance with the post-  
15      ing of domestic violence victim service access infor-  
16      mation required under section 4(b); and

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

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

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