

111TH CONGRESS
2^D SESSION

S. 3740

To supplement State jurisdiction in Alaska Native villages with Federal and tribal resources to improve the quality of life in rural Alaska while reducing domestic violence against Native women and children and to reduce alcohol and drug abuse and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2010

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

A BILL

To supplement State jurisdiction in Alaska Native villages with Federal and tribal resources to improve the quality of life in rural Alaska while reducing domestic violence against Native women and children and to reduce alcohol and drug abuse 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 “Alaska Safe Families
5 and Villages Act of 2010”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) while the State of Alaska and numerous
2 Alaska organizations have struggled for years to ad-
3 dress crime and substance abuse problems in Alaska,
4 Native Villages continue to suffer from
5 disproportionately high rates of illicit drug use, alco-
6 hol abuse, and domestic violence;

7 (2) the suicide rate in Alaska Native villages is
8 6 times the national average, and the alcohol-related
9 mortality rate is 3.5 times that of the general na-
10 tional population;

11 (3) Alaska Native women suffer the highest
12 rate of forcible sexual assault in the United States,
13 and an Alaska Native woman is sexually assaulted
14 every 18 hours;

15 (4) according to the 2006 Initial Report and
16 Recommendations of the Alaska Rural Justice and
17 Law Enforcement Commission more than 95 percent
18 of all crimes committed in rural Alaska can be at-
19 tributed to alcohol;

20 (5) the cost of drug and alcohol abuse in Alaska
21 is estimated at \$525,000,000 per year;

22 (6) the State of Alaska's public safety system
23 does not effectively serve vast areas of the State in
24 which many remote Alaska Native villages are lo-
25 cated, except in response to serious crimes involving

1 severe injury or death, which are handled by Alaska
2 State Troopers who are located in only a small num-
3 ber of hub communities around the State;

4 (7) extreme weather conditions often prevent or
5 delay travel into remote Alaska Native villages, fore-
6 ing residents to wait for several days for an Alaska
7 State Trooper to arrive and respond to these crimes,
8 compared to a law enforcement response time nor-
9 mally within minutes for residents of urban commu-
10 nities;

11 (8) in many rural Alaska Native villages, there
12 is no local law enforcement presence whatsoever;

13 (9) to the extent there are resident law enforce-
14 ment officers in rural villages, they consist of Village
15 Public Safety Officers (VPSOs) through the State
16 VPSO Program, and a very limited number of other
17 peace officers such as Village Police Officers
18 (VPOs), Tribal Police Officers (TPOs) and Commu-
19 nity Peace Officers (CPOs) who tend to have only
20 minimal training and experience;

21 (10) the VPSO Program is not able to ade-
22 quately serve all remote Alaska Native villages be-
23 cause there is insufficient funding or officers to ad-
24 dress the urgent need for additional law enforcement
25 in these communities;

1 (11) the number of VPSOs currently serving in
2 Alaska is approximately 71, yet there are about 200
3 remote villages in Alaska, all of which could benefit
4 from a law enforcement presence;

5 (12) studies have concluded that the lack of ef-
6 fective law enforcement in Alaska Native villages
7 contributes significantly to increased crime, alcohol
8 abuse, drug abuse, domestic violence, and rates of
9 suicide, poor educational achievement, and a lack of
10 economic development in those communities;

11 (13) law enforcement that is created and ad-
12 ministered by Indian tribes in Alaska will be more
13 responsive to the need for greater local control, local
14 responsibility, and local accountability in the admin-
15 istration of justice; and

16 (14) it is necessary to invoke the plenary au-
17 thority of Congress over Indian affairs under section
18 8 of clause 3 of article I of the Constitution, in
19 order to improve law enforcement conditions in Alas-
20 ka Native villages.

21 (b) PURPOSES.—The purposes of this Act are—

22 (1) to establish a demonstration project under
23 which a limited number of Indian tribes in Alaska
24 Native villages will exercise local law enforcement re-
25 sponsibilities to combat alcohol and drug abuse and

1 to enhance existing tribal authority over domestic vi-
2 olence and child abuse and neglect;

3 (2) to enhance coordination and communication
4 among Federal, State, tribal, and local law enforce-
5 ment agencies; and

6 (3) to increase funding for, and therefore avail-
7 ability of, local law enforcement.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) INDIAN TRIBE.—The term “Indian tribe”
11 means any Indian tribe, band, nation, or other orga-
12 nized group or community of Indians recognized as
13 eligible for the services provided to Indians by the
14 Secretary because of their status as Indians, includ-
15 ing any Alaska Native village as defined in section
16 3(c) of the Alaska Native Claims Settlement Act (43
17 U.S.C. 1602(c)).

18 (2) PROJECT.—The term “Project” means the
19 Alaska Safe Families and Villages Demonstration
20 Project established by section 4(a).

21 (3) PROJECT AREA.—The term “Project Area”
22 means the geographical area within which an Indian
23 tribe proposes to enforce the laws of the Indian tribe
24 developed under the Project, as determined by the
25 tribal government of the applicable Indian tribe and

1 as approved by the Office of Justice Programs upon
2 a showing that the extension of jurisdiction to such
3 area is in the interest of justice.

4 (4) TRIBAL COURT.—The term “tribal court”
5 means any court, council, or other mechanism sanc-
6 tioned by an Indian tribe for the adjudication of dis-
7 putes, including the violation of tribal laws, ordi-
8 nances, or regulations.

9 (5) TRIBAL ORGANIZATION.—The term “tribal
10 organization” has the meaning given the term in
11 section 4 of the Indian Self-Determination and Edu-
12 cation Assistance Act (25 U.S.C. 450b).

13 **SEC. 4. ALASKA SAFE FAMILIES AND VILLAGES DEM-**
14 **ONSTRATION PROJECT.**

15 (a) ESTABLISHMENT OF PROJECT.—The Office of
16 Justice Programs of the Department of Justice shall carry
17 out the Alaska Safe Families and Villages Demonstration
18 Project as provided by this section.

19 (b) NUMBER OF TRIBES.—The Office of Justice Pro-
20 grams shall select not more than 9 Indian tribes in Alaska
21 to participate in the Project in Alaska over a 3-year pe-
22 riod, with not more than 3 Indian tribes selected during
23 each of fiscal years 2011, 2012, and 2013.

1 (c) DURATION OF PROJECT.—Each Indian tribe se-
2 lected to participate in the Project shall remain in the
3 Project for a period of 5 years.

4 (d) ANNUAL REPORT.—

5 (1) IN GENERAL.—On or before May 1 of each
6 year, the Attorney General shall provide to the Com-
7 mittee on Indian Affairs of the Senate and the Com-
8 mittee on Natural Resources of the House of Rep-
9 resentatives a brief annual report detailing activities
10 undertaken under the Project and setting forth an
11 assessment of the Project, together with any rec-
12 ommendations of the Attorney General for further
13 action by Congress.

14 (2) REQUIREMENTS.—Each report submitted
15 under this subsection shall be prepared—

16 (A) in consultation with the governments
17 of Indian tribes in Alaska; and

18 (B) after those governments and the State
19 of Alaska have an opportunity to comment on
20 each report prior to the finalization of the re-
21 port.

22 (e) APPLICATIONS.—

23 (1) CRITERIA.—To qualify to participate in the
24 Project, an Indian tribe in Alaska shall—

1 (A) request participation by resolution or
2 other official action by the governing body of
3 the Indian tribe;

4 (B) have for the preceding 3 fiscal years
5 no uncorrected significant and material audit
6 exceptions regarding any Federal contracts or
7 grants;

8 (C) demonstrate to the Attorney General
9 sufficient governance capacity to conduct the
10 Project, as evidenced by the history of the In-
11 dian tribe of operating government services, in-
12 cluding public utilities, children's courts, law
13 enforcement, social service programs, or other
14 activities;

15 (D) demonstrate the ability to sustain the
16 goals and purposes of the Project after funding
17 for the Project has expired; and

18 (E) meet such other criteria as the Attor-
19 ney General may promulgate, after providing
20 for public notice.

21 (2) COPY TO THE ALASKA AG.—Each Indian
22 tribe shall send a copy of its application submitted
23 under this section to the Attorney General of Alas-
24 ka.

1 (f) TRIBAL REPORTING.—The Attorney General may
2 by regulation promulgate such minimum reporting re-
3 quirements as the Attorney General determines are rea-
4 sonably necessary to carry out this Act.

5 (g) PUBLIC COMMENT.—All applications submitted
6 pursuant to subsection (e) shall be subject to public com-
7 ment for a period of not less than 30 days following publi-
8 cation of notice in a newspaper or other publication of gen-
9 eral circulation in the vicinity of the Alaska Native village
10 of the Indian tribe requesting participation in the Project.

11 (h) PLANNING PHASE.—Each Indian tribe selected
12 for participation in the Project shall complete a planning
13 phase that includes—

14 (1) internal governmental and organizational
15 planning;

16 (2) the development of written tribal law or or-
17 dinances detailing the structure and procedures of
18 the tribal court;

19 (3) enforcement mechanisms; and

20 (4) those aspects of drug- or alcohol-related
21 matters that the Indian tribe proposes to regulate.

22 (i) CERTIFICATION.—

23 (1) IN GENERAL.—Upon completion of the
24 planning phase under subsection (h), an Indian tribe
25 shall provide to the Office of Tribal Justice—

1 (A) the constitution of the Indian tribe (or
2 equivalent organic documents showing the
3 structure of the tribal government and the
4 placement and authority of the tribal court
5 within that structure);

6 (B) the written tribal laws or ordinances of
7 the Indian tribe governing court procedures and
8 the regulation and enforcement of drugs, alco-
9 hol, and related matters;

10 (C) a map depicting the Project Area of
11 the Indian tribe; and

12 (D) such other information or materials as
13 the Attorney General may by public notice re-
14 quire.

15 (2) CERTIFICATION.—The Office of Tribal Jus-
16 tice shall certify the completion of the planning
17 phase under this section.

18 (3) TIMING.—Certification under paragraph (2)
19 may occur at the time at which an Indian tribe ap-
20 plies for participation in the Project if the Indian
21 tribe demonstrates that the Indian tribe has already
22 met the requirements of the planning phase.

23 (j) EFFECT OF CERTIFICATION.—

24 (1) IN GENERAL.—Commencing 30 days after
25 the certification described in subsection (i) and ex-

1 cept as provided in paragraph (2), an Indian tribe
2 participating in the Project shall exercise jurisdic-
3 tion, concurrent with the civil jurisdiction of the
4 State of Alaska under State law, over—

5 (A) the drug, alcohol, or related matters
6 described in subsection (i) within the Project
7 Area of the Indian tribe; and

8 (B) persons of Indian or Alaska Native de-
9 scendent or other persons with consensual relation-
10 ships with the Indian tribe or a member of the
11 Indian tribe.

12 (2) SANCTIONS.—An Indian tribe participating
13 in the Project shall impose such sanctions as shall
14 be determined by the tribal court to be appropriate,
15 consistent with the Indian Civil Rights Act and trib-
16 al law, including such measures as—

17 (A) restorative justice;

18 (B) community service;

19 (C) fines;

20 (D) forfeitures;

21 (E) commitments for treatment;

22 (F) restraining orders; and

23 (G) emergency detentions.

24 (3) AGREEMENT REQUIRED.—A person may
25 not be incarcerated by an Indian tribe participating

1 in the Project except pursuant to an agreement en-
2 tered into under section 7.

3 (4) TREATMENT OF PROTECTIVE ORDERS.—

4 For purposes of this subsection, the protective order
5 of an Indian tribe participating in the Project ex-
6 cluding any member or non-member from a commu-
7 nity shall be considered a civil remedy.

8 (5) EMERGENCY CIRCUMSTANCES.—Nothing in
9 this subsection shall prevent an Indian tribe partici-
10 pating in the Project from acting in the following
11 emergency circumstances:

12 (A) A tribe may assume protective custody
13 of a tribal member or otherwise take action to
14 prevent imminent harm to self or others.

15 (B) A tribe may take immediate, tem-
16 porary protective measures to address situa-
17 tions involving an imminent threat of harm to
18 self or others by a non-member.

19 (k) EFFECT OF ACT.—Nothing in this Act—

20 (1) limits, alters, or diminishes the civil or
21 criminal jurisdiction of the State of Alaska, or any
22 subdivision of that State, the United States, or any
23 Indian tribe in Alaska, including existing inherent
24 and statutory authority of the tribes over child pro-
25 tection, child custody, and domestic violence;

1 (2) confirms or denies that any area of Alaska
2 does or does not constitute Indian country;

3 (3) diminishes the trust responsibility of the
4 United States to Indian tribes in Alaska, or abridges
5 or diminishes the sovereign immunity of any Indian
6 tribe in Alaska;

7 (4) alters the jurisdiction of the Metlakatla In-
8 dian Community within the Annette Islands Res-
9 ervation;

10 (5) limits in any manner the eligibility of the
11 State of Alaska, any political subdivision of the
12 State, or any Indian tribe in Alaska, for any other
13 Federal assistance under any other law; or

14 (6) shall be construed to alter the tribes' exist-
15 ing jurisdictional authority over domestic violence
16 under the Violence Against Women Act.

17 (l) LIABILITY OF STATE OF ALASKA.—The State of
18 Alaska and any political subdivision of the State shall not
19 be liable for any act or omission of an Indian tribe partici-
20 pating in the Project, including acts or omissions under-
21 taken pursuant to an intergovernmental agreement en-
22 tered into under section 7.

23 (m) CONTRACTS.—

24 (1) IN GENERAL.—Each Indian tribe partici-
25 pating in the Project shall be eligible for a contract

1 from the Office of Justice Programs, in an amount
2 not to exceed \$250,000 per year, for use in defray-
3 ing costs associated with the Project, including costs
4 relating to—

5 (A) tribal court operations and personnel;

6 (B) utility and maintenance;

7 (C) overhead;

8 (D) equipment; and

9 (E) continuing education (including trav-
10 el).

11 (2) REQUIREMENTS.—The contracts made
12 available under this subsection shall be—

13 (A) in addition to such grants as may be
14 available under this Act or other provisions of
15 law; and

16 (B) awarded as contracts in a form au-
17 thorized by the Indian Self-Determination and
18 Education Assistance Act (25 U.S.C. 450 et
19 seq.).

20 (3) TRIBAL ORGANIZATIONS.—A tribal organi-
21 zation may enter into contracts on behalf of an In-
22 dian tribe participating in the Project upon express
23 written delegation of authority of the Indian tribe to
24 the tribal organization.

1 (n) REGULATIONS.—The Attorney General may pro-
2 mulgate such regulations as the Attorney General deter-
3 mines to be necessary to carry out this section.

4 (o) FULL FAITH AND CREDIT.—

5 (1) IN GENERAL.—Each State shall give full
6 faith and credit to all official acts and decrees of the
7 tribal court of an Indian tribe participating in the
8 Project to the same extent and in the same manner
9 as such State accords full faith and credit to the of-
10 ficial acts and decrees of other States.

11 (2) OTHER LAW.—Nothing in this subsection
12 impairs the duty of a State to give full faith and
13 credit under any other law.

14 (p) FEDERAL JURISDICTION.—

15 (1) IN GENERAL.—Subject to paragraph (2),
16 Project Areas and Indian tribes participating in the
17 Project shall be eligible for the same law enforce-
18 ment programs of the Bureau of Indian Affairs and
19 the Office of Justice Programs, as are applicable to
20 those areas under section 401 of Public Law 90–284
21 (25 U.S.C. 1321).

22 (2) APPLICABILITY IN ALASKA.—Nothing in
23 this Act limits the application in Alaska of any other
24 provision of this Act.

1 (q) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out subsection (m)
3 \$2,500,000 for each of fiscal years 2011 through 2017.

4 **SEC. 5. ALASKA VILLAGE PEACE OFFICERS.**

5 (a) ESTABLISHMENT OF ALASKA VILLAGE PEACE
6 OFFICER GRANTS PROGRAM.—The Office of Justice Serv-
7 ices of the Department of the Interior shall carry out a
8 contract program for the employment by Indian tribes of
9 Village Peace Officers in Alaska Native villages as pro-
10 vided in this section.

11 (b) APPLICATION CRITERIA.—

12 (1) IN GENERAL.—To qualify for a contract
13 under this section, an applicant shall—

14 (A) be an Indian tribe in Alaska that par-
15 ticipated in a Project;

16 (B) demonstrate the lack of other resident
17 law enforcement in the applicable Alaska Native
18 village; and

19 (C) satisfy such other criteria as may be
20 established by notice by the Office of Justice
21 Services.

22 (2) LIMITATION.—Each contract awarded
23 under this section shall be in an amount not to ex-
24 ceed \$100,000 for the salary and related costs of
25 employing and equipping 1 Village Peace Officer, ex-

1 cept that the Office of Justice Services shall be au-
2 thorized to waive the 1-officer limitation upon a
3 showing of compelling circumstances.

4 (c) CONTRACTS.—At the request of an applicant In-
5 dian tribe, the Office of Tribal Services shall disburse
6 funds awarded under this section through modifications
7 to existing self-determination contracts or self-governance
8 compacts authorized under the Indian Self-Determination
9 and Education Assistance Act (25 U.S.C. 450 et seq.),
10 or by contract to a political subdivision of the State of
11 Alaska pursuant to an agreement, if any, under section
12 7.

13 (d) ELIGIBILITY FOR BIA TRAINING.—Village peace
14 officers hired pursuant to this section shall be eligible to
15 attend the Bureau of Indian Affairs Police Officer Train-
16 ing Program.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out this section
19 \$5,000,000 for each of fiscal years 2011 through 2017.

20 **SEC. 6. TECHNICAL ASSISTANCE.**

21 (a) IN GENERAL.—The Attorney General may enter
22 into 18-month contracts with tribal organizations in Alas-
23 ka to provide training and technical assistance on tribal
24 court development to any Indian tribes in Alaska.

1 (b) COOPERATION.—Tribal organizations may co-
 2 operate with other entities for the provision of services
 3 under contracts described in subsection (a).

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
 5 authorized to be appropriated to carry out this section
 6 \$2,000,000.

7 **SEC. 7. INTERGOVERNMENTAL AGREEMENTS.**

8 (a) IN GENERAL.—The State of Alaska, political sub-
 9 divisions of that State, Indian tribes in Alaska, and the
 10 United States are each authorized and encouraged to
 11 enter into intergovernmental agreements, including agree-
 12 ments concerning—

13 (1) the employment of law enforcement officers,
 14 probation, and parole officers;

15 (2) cross-appointment and cross-deputization of
 16 tribal, State, municipal, or Federal officials;

17 (3) the detention or incarceration of offenders;
 18 and

19 (4) jurisdictional or financial matters.

20 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
 21 tion shall be construed as restricting the right of the judi-
 22 cial system of Alaska to enter into agreements with the
 23 tribal courts.

○