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116TH CONGRESS
1ST SESSION

H. R. 3977

To amend the Indian Civil Rights Act of 1968 to extend the jurisdiction of tribal courts to cover crimes involving sexual violence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Ms. HAALAND (for herself, Mr. COOK, Ms. DAVIDS of Kansas, Mr. COLE, and Mr. GALLEGO) introduced the following bill; which was referred to the Committee on Natural Resources

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A BILL

To amend the Indian Civil Rights Act of 1968 to extend the jurisdiction of tribal courts to cover crimes involving sexual violence, and for other purposes.

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 ''Justice for Native Survivors of Sexual Violence Act''.

SEC. 2. TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC, DATING, OR SEXUAL VIOLENCE, SEX TRAFFICKING, OR STALKING.

Section 204 of Public Law 90–284 (25 U.S.C. 1304) (commonly known as the ''Indian Civil Rights Act of 1968'') is amended—

(1) in the section heading, by striking ''**DOMESTIC VIOLENCE**'' and inserting ''**DOMESTIC, DATING, OR SEXUAL VIOLENCE, SEX TRAFFICKING, OR STALKING**'';

(2) in subsection (a)—

(A) in paragraph (1), by striking ''means violence'' and inserting ''includes any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is'';

(B) in paragraph (2)—

(i) by striking ''means violence'' and inserting ''includes any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is''; and

(ii) by striking ''an Indian tribe that has jurisdiction over the Indian country where the violence occurs'' and inserting ''that Indian tribe'';

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

(D) by redesignating paragraphs (6) and (7) as paragraphs (9) and (10), respectively;

(E) by inserting after paragraph (5) the following:

''(6) RELATED CONDUCT.—The term 'related conduct' means conduct alleged to have been committed by a defendant that—

''(A) is a violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the underlying offense occurred; and

''(B) occurs in connection with the exercise of special tribal criminal jurisdiction by that Indian tribe.

''(7) SEX TRAFFICKING.—

''(A) IN GENERAL.—The term 'sex trafficking' means conduct—

''(i) consisting of—

''(I) recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting by any means a person; or

"(II) benefiting, financially or by receiving anything of value, from participation in a venture that has engaged in an act described in subclause (I); and

"(ii) carried out with the knowledge, or, except where the act constituting the violation of clause (i) is advertising, in reckless disregard of the fact, that—

"(I) means of force, threats of force, fraud, coercion, or any combination of such means will be used to cause the person to engage in a commercial sex act; or

"(II) the person has not attained the age of 18 years and will be caused to engage in a commercial sex act.

"(B) DEFINITIONS.—In this paragraph, the terms 'coercion' and 'commercial sex act' have the meanings given the terms in section 1591(e) of title 18, United States Code.

"(8) SEXUAL VIOLENCE.—The term 'sexual violence' means any nonconsensual sexual act or contact proscribed by Federal, tribal, or State law, in-

cluding in any case in which the victim lacks the capacity to consent to the act.'';

(F) in paragraph (9) (as redesignated by subparagraph (D))—

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

(ii) by striking ''domestic violence'' and inserting ''tribal''; and

(G) by adding at the end the following:

''(11) STALKING.—The term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person—

''(A) to fear for his or her safety or the safety of others; or

''(B) to suffer substantial emotional distress.'';

(3) in subsection (b)—

(A) by striking ''domestic violence'' each place the term appears and inserting ''tribal''; and

(B) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) by striking the paragraph designation and heading and all that follows

through "A participating" in clause (i) of subparagraph (A) and inserting the following:

"(4) EXCEPTION FOR NON-INDIAN VICTIM AND DEFENDANT.—

"(A) IN GENERAL.—A participating"; and

(iii) by striking "(ii) DEFINITION OF VICTIM.—In this subparagraph" and inserting the following:

"(B) DEFINITION OF VICTIM.—In this paragraph";

(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 "VIOLENCE AND DATING" and inserting ", DATING, AND SEXUAL"; and

(ii) by striking "or dating violence" and inserting ", dating violence, or sexual violence"; and

(C) by adding at the end the following:

"(3) STALKING.—An act of stalking that occurs in the Indian country of the participating tribe.

"(4) SEX TRAFFICKING.—An act of sex trafficking that occurs in the Indian country of the participating tribe.

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

(5) in subsection (d), by striking "domestic violence" each place the term appears and inserting "tribal"; and

(6) in subsection (f)—

(A) by striking "special domestic violence" each place the term appears and inserting "special tribal";

(B) in paragraph (2), by striking "prosecutes" and all that follows through the semicolon at the end and inserting the following: "prosecutes—

"(A) a crime of domestic violence;

"(B) a crime of dating violence;

"(C) a crime of sexual violence;

"(D) a criminal violation of a protection order;

"(E) a crime of stalking;

"(F) a crime of sex trafficking; or

"(G) a crime of related conduct;"; and

(C) in paragraph (4), by inserting ''sexual violence, stalking, sex trafficking,'' after ''dating violence,''.

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