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SENATE

{ REPORT
116-214

TO INCREASE INTERGOVERNMENTAL COORDINATION TO IDENTIFY AND COMBAT VIOLENT CRIME WITHIN IN- DIAN LANDS AND OF INDIANS

FEBRUARY 11, 2020.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 982]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 982), to increase intergovernmental coordination to identify and combat violent crime within Indian lands and of Indians, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 982, the *Not Invisible Act of 2019*, is to improve the federal government's response to the murder, trafficking, and disappearance of indigenous persons within the United States; increase coordination and prevention efforts between the Department of the Interior (DOI), outside organizations, and other federal agencies, as appropriate; and, create a Joint Commission on Reducing Violent Crime Against Indians within the DOI and the Department of Justice (DOJ).

BACKGROUND

The crisis of missing, murdered, and trafficked American Indians and Alaska Natives (AI/ANs) has devastated families and communities across the United States. Approximately 80 percent of Native American men and women experience violence in their lifetimes, and 34 percent of Native American women experience sexual vio-

lence in their lifetimes.¹ Equally disturbing is the fact that murder is the third-leading cause of death for AI/AN women in the United States.²

NEED FOR LEGISLATION

There are many federal programs tasked with addressing violent crime, however, the agencies that operate these programs do not have an overarching strategy to properly deploy these resources in Indian Country and urban Indian communities. Program implementation often takes place without considering the unique needs of Native communities in this context. The *Not Invisible Act of 2019* addresses these concerns by providing an opportunity for the federal government to improve its efforts to combat the growing crisis of murder, trafficking, and the disappearance of indigenous men and women.

SUMMARY OF THE BILL

The bill directs the Secretary of the Interior to designate an official within the Bureau of Indian Affairs–Office of Justice Services (BIA–OJS) to coordinate prevention efforts, grants, and programs across offices within the Bureau of Indian Affairs (BIA), the DOJ, and other federal agencies that operate programs to address the murder, trafficking, and recovery of missing indigenous men and women on Indian lands and in urban centers. These interagency efforts include the following: DOJ’s Office of Justice Programs, the Office on Violence Against Women, the Office of Community Oriented Policing Services, the Office of Tribal Justice, the Federal Bureau of Investigation, and other federal agencies as needed.

The *Not Invisible Act of 2019* also establishes a Joint Commission on Reducing Violent Crime Against Indians (Joint Commission) within the DOI, composed of federal and tribal community representatives. The bill directs the Joint Commission to publish a report containing recommendations for the Secretary of the Interior, and the Attorney General, outlining actions both departments can take to help combat violent crime against Indians within Indian lands. These recommendations will include:

- Administrative changes to identify, report, and respond effectively to cases of missing persons, murder, and human trafficking of Indians within Indian lands;
- Best practices for tribal, federal, state, and local law enforcement agencies to follow in combatting violent crime against Indians within Indian lands, including missing persons, murder, and human trafficking; and
- Guidance on how to address any gaps in services for Indian victims of violent crime.

No later than 90 days following publication of the Joint Commission’s report, the bill requires the Secretary of the Interior, and the Attorney General, to publish written responses to the Joint Commission’s recommendations.

¹ Andre B. Rosay, *Violence Against American Indian and Alaska Native Women and Men* (Sept. 2016), available at <https://www.ncjrs.gov/pdffiles1/nij/249822.pdf> (last accessed Jan. 30, 2020).

² Abigail Echo-Hawk, *Report by the Urban Indian Health Institute: Missing and Murdered Indigenous Women & Girls* (2019), available at <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf> (last accessed Jan. 30, 2020).

LEGISLATIVE HISTORY

On April 2, 2019, Senators Cortez Masto, Murkowski, and Tester introduced S. 982, the *Not Invisible Act of 2019*, which was referred to the Committee. Senators Smith, Moran, Sullivan, Daines, Rosen, and Udall later joined as cosponsors.

June 19, 2019, the Committee held a legislative hearing on the bill. The Committee received testimony from the DOJ Office of Tribal Justice, and the BIA–OJS. Both administration witnesses expressed their desire to continue working with staff on the bill, and to provide further technical assistance on the substance of the legislation. The Committee also received testimony from the Chief Justice of the Central Council Tlingit and Haida Indian Tribes of Alaska, and the Secretary of the United South and Eastern Tribes, in support of the bill as introduced.

On November 20, 2019, the Committee met at a duly called business meeting to consider several bills, including S. 982. Senators Cortez Masto and Murkowski filed one substitute amendment, which incorporated the concerns and feedback submitted by the DOJ and BIA–OJS. The amendment passed via voice vote, and the Committee ordered S. 982 reported favorably by a roll call vote of 12–0, with one member not present.

An identical House companion bill, H.R. 2438, was introduced on May 1, 2019 by Representative Debra Haaland [NM–01], and jointly referred to the House Committees on Natural Resources and the Judiciary. No further action has been taken at this time.

SECTION-BY-SECTION ANALYSIS OF S. 982 AS AMENDED

Section 1: Short title

This Act may be cited as “The Not Invisible Act of 2019.”

Section 2: Definitions

This section provides for definitions to be used throughout the bill.

Section 3: Coordinator of Federal Efforts to Combat Violence Against Native People

This section requires the Secretary of the Interior to designate an official within the BIA–OJS who will report directly to the Secretary, and be responsible for the following:

- Coordinating violent crime prevention efforts, grants, and programs related to the murder, trafficking, or disappearance of Indians on Indian lands, and in urban centers across the BIA, the DOJ, and other federal agencies;
- Ensuring that those relevant federal programs and resources consider the unique challenges of combating crime, violence, and human trafficking of Indians on Indian lands;
- Working in cooperation with outside organizations to train tribal law enforcement, Indian Health Service (IHS) providers, and other tribal community members on identifying, responding to, and reporting on cases of missing persons, murder, and human trafficking;
- Submitting annual reports Congress on these efforts and recommendations for improving coordination.

Section 4: Establishment of the Department of the Interior and the Department of Justice Joint Commission on Reducing Violent Crime Against Indians

This section requires the Secretary of the Interior, in coordination with the Attorney General, to establish a Joint Commission on Reducing Violent Crime Against Indians, composed of law enforcement, tribal leaders, federal partners, service providers, family members, and survivors. This section exempts the Joint Commission from the *Federal Advisory Committee Act*. This section specifies that the authorization for the Joint Commission terminates after two years. Lastly, this section sets forth parameters for the appointment, duties, fulfillment of vacancies, compensation, and travel expenses of the Joint Commission.

Within 18 months of enactment of the bill, this section requires the Joint Commission to make recommendations to DOI and DOJ on additional efforts to combat violent crime, including:

- Strategies for identifying, reporting, and responding to instances of missing persons, murder, and human trafficking in Indian Country and of American Indians and Alaska Natives;
- Identifying necessary legislative and administrative changes;
- Tracking and reporting relevant data; and
- Providing recommendations for addressing staff shortages in critical law enforcement positions; and recommendations for increasing prosecution of violent crimes.

This section further requires the Secretary of the Interior, and the Attorney General, to respond to the recommendations of the Joint Commission within three months of receiving them. The Joint Commission, the Secretary of the Interior, and the Attorney General submit all recommendations and responses to Congress and make them publicly available.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 31, 2020.

Hon. JOHN HOEVEN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 982, the Not Invisible Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

PHILLIP L. SWAGEL,
Director.

, Not Invisible Act of 2019			
As on November 20, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	1	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 982 would require the Bureau of Indian Affairs (BIA) to designate an official to coordinate all federal efforts for reducing violent crime affecting Native Americans. Under the bill, the official would coordinate all relevant programs and grants among BIA and various entities within the Department of Justice, such as the Office of Tribal Justice and the Federal Bureau of Investigation. Using information from BIA, CBO estimates that the agency would employ the new official at an initial annual cost of about \$150,000 per year, adjusted annually for inflation, over the 2020–2025 period.

The bill also would establish a joint commission, consisting of representatives of federal agencies; state, local, and tribal officials; and victims of violent crime to develop recommendations for reducing violent crime affecting Native Americans. Using information from BIA, CBO expects that the commission would have 38 members and would meet three times each year in 2021 and 2022. CBO estimates that the cost of operating the commission would total about \$350,000 for support staff and the commission members' travel and lodging expenses. Any spending under the bill would be subject to availability of appropriated funds.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 982 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

Except as otherwise noted, the Committee has received no communications from the Executive Branch regarding S. 982.

CHANGES IN EXISTING LAW

In accordance with Committee Rules, subsection 12 of rule XXVI of the Standing Rules of the Senate is waived. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

