

115TH CONGRESS
2D SESSION

H. R. 6728

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2018

Mr. O'HALLERAN (for himself and Mr. COLE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Education and the Workforce, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 that—

8 (1) Native women face some of the highest lev-
9 els of violence of any group;

1 (2) more than half of American Indian and
2 Alaska Native women have experienced physical vio-
3 lence by an intimate partner in their lifetimes, and
4 90 percent of these women have experienced that vi-
5 olence at the hands of a non-Indian intimate part-
6 ner;

7 (3) Indian tribes report that children are usu-
8 ally involved in domestic violence and dating violence
9 incidents that occur on Indian lands, either as wit-
10 nesses or as victims themselves;

11 (4) American Indian children and Alaska Na-
12 tive children experience post-traumatic stress dis-
13 order (referred to in this Act as “PTSD”) at much
14 higher rates than non-Indian children;

15 (5) American Indian children and Alaska Na-
16 tive children experience PTSD at a rate of 22 per-
17 cent, which is the same rate at which Afghanistan
18 and Iraq war veterans experience PTSD;

19 (6) children in Indian country should be pro-
20 tected from violence;

21 (7) violence against children and crime associ-
22 ated with dating violence and domestic violence in-
23 crease the number of instances of trauma in tribal
24 communities, which—

25 (A) affects health outcomes;

1 (B) reduces educational attainment;

2 (C) hinders economic growth; and

3 (D) undermines public safety;

4 (8) the Uniform Crime Report of the Federal
5 Bureau of Investigation shows that police officers,
6 including tribal police officers, are assaulted when
7 responding to disturbance calls more often than
8 under any other circumstances;

9 (9) Congress established the Indian Law and
10 Order Commission to advise the Federal Govern-
11 ment on how to improve criminal justice in Indian
12 country;

13 (10) the Indian Law and Order Commission
14 issued a report entitled “A Roadmap for Making
15 Native America Safer”, which recommends the res-
16 toration of the inherent authority of tribal courts;
17 and

18 (11) tribal communities should be able to pro-
19 tect themselves from dating violence, domestic vio-
20 lence, and child violence, and from violence com-
21 mitted against members of the tribal justice system.

22 **SEC. 3. PROTECTION OF NATIVE CHILDREN AND TRIBAL**
23 **COMMUNITIES.**

24 Section 204 of Public Law 90–284 (25 U.S.C. 1304)
25 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;

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

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

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

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

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

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

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

21 “(E) a person who provides or has pro-
22 vided care for the child in or out of the home
23 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 “2018 through 2022”.

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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