

115TH CONGRESS
1ST SESSION

S. 1986

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 SENATE OF THE UNITED STATES

OCTOBER 19, 2017

Mr. FRANKEN (for himself, Ms. MURKOWSKI, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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.

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 “Justice for Native Sur-
5 vivors of Sexual Violence Act”.

1 **SEC. 2. TRIBAL JURISDICTION OVER CRIMES OF DOMES-**
 2 **TIC, DATING, OR SEXUAL VIOLENCE, SEX**
 3 **TRAFFICKING, OR STALKING.**

4 Section 204 of Public Law 90–284 (25 U.S.C. 1304)
 5 (commonly known as the “Indian Civil Rights Act of
 6 1968”) is amended—

7 (1) in the section heading, by striking “**DO-**
 8 **MESTIC VIOLENCE**” and inserting “**DOMESTIC,**
 9 **DATING, OR SEXUAL VIOLENCE, SEX TRAF-**
 10 **FICKING, OR STALKING**”;

11 (2) in subsection (a)—

12 (A) in paragraph (1), by striking “means
 13 violence” and inserting “includes any felony or
 14 misdemeanor violation of the criminal law of
 15 the Indian tribe that has jurisdiction over the
 16 Indian country where the violation occurs that
 17 is”;

18 (B) in paragraph (2)—

19 (i) by striking “means violence” and
 20 inserting “includes any felony or mis-
 21 demeanor violation of the criminal law of
 22 the Indian tribe that has jurisdiction over
 23 the Indian country where the violation oc-
 24 curs that is”; and

25 (ii) by striking “an Indian tribe that
 26 has jurisdiction over the Indian country

1 where the violence occurs” and inserting
 2 “that Indian tribe”;

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

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

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

9 “(6) RELATED CONDUCT.—The term ‘related
 10 conduct’ means conduct alleged to have been com-
 11 mitted by a defendant that—

12 “(A) is a violation of the criminal law or
 13 contempt authority of the tribal court of the In-
 14 dian tribe that has jurisdiction over the Indian
 15 country where the underlying offense occurred;
 16 and

17 “(B) occurs in connection with the exercise
 18 of special tribal criminal jurisdiction by that In-
 19 dian tribe.

20 “(7) SEX TRAFFICKING.—

21 “(A) IN GENERAL.—The term ‘sex traf-
 22 ficking’ means conduct—

23 “(i) consisting of—

24 “(I) recruiting, enticing, har-
 25 boring, transporting, providing, ob-

1 taining, advertising, maintaining, pa-
 2 tronizing, or soliciting by any means a
 3 person; or

4 “(II) benefiting, financially or by
 5 receiving anything of value, from par-
 6 ticipation in a venture that has en-
 7 gaged in an act described in subclause
 8 (I); and

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

13 “(I) means of force, threats of
 14 force, fraud, coercion, or any combina-
 15 tion of such means will be used to
 16 cause the person to engage in a com-
 17 mercial sex act; or

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

21 “(B) DEFINITIONS.—In this paragraph,
 22 the terms ‘coercion’ and ‘commercial sex act’
 23 have the meanings given the terms in section
 24 1591(e) of title 18, United States Code.

1 “(8) SEXUAL VIOLENCE.—The term ‘sexual vio-
 2 lence’ means any nonconsensual sexual act or con-
 3 tact proscribed by Federal, tribal, or State law, in-
 4 cluding in any case in which the victim lacks the ca-
 5 pacity to consent to the act.”;

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

8 (i) in the paragraph heading, by strik-
 9 ing “DOMESTIC VIOLENCE” and inserting
 10 “TRIBAL”; and

11 (ii) by striking “domestic violence”
 12 and inserting “tribal”; and

13 (G) by adding at the end the following:

14 “(11) STALKING.—The term ‘stalking’ means
 15 engaging in a course of conduct directed at a spe-
 16 cific person that would cause a reasonable person—

17 “(A) to fear for his or her safety or the
 18 safety of others; or

19 “(B) to suffer substantial emotional dis-
 20 tress.”;

21 (3) in subsection (b)—

22 (A) by striking “domestic violence” each
 23 place the term appears and inserting “tribal”;
 24 and

25 (B) in paragraph (4)—

1 (i) by striking subparagraph (B);

2 (ii) by striking the paragraph designa-
 3 tion and heading and all that follows
 4 through “A participating” in clause (i) of
 5 subparagraph (A) and inserting the fol-
 6 lowing:

7 “(4) EXCEPTION FOR NON-INDIAN VICTIM AND
 8 DEFENDANT.—

9 “(A) IN GENERAL.—A participating”; and

10 (iii) by striking “(ii) DEFINITION OF
 11 VICTIM.—In this subparagraph” and in-
 12 serting the following:

13 “(B) DEFINITION OF VICTIM.—In this
 14 paragraph”;

15 (4) in subsection (c)—

16 (A) in the matter preceding paragraph (1),
 17 by striking “domestic violence” and inserting
 18 “tribal”;

19 (B) in paragraph (1)—

20 (i) in the paragraph heading, by strik-
 21 ing “VIOLENCE AND DATING” and insert-
 22 ing “, DATING, AND SEXUAL”; and

23 (ii) by striking “or dating violence”
 24 and inserting “, dating violence, or sexual
 25 violence”; and

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

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

4 “(4) SEX TRAFFICKING.—An act of sex traf-
5 ficking that occurs in the Indian country of the par-
6 ticipating tribe.

7 “(5) 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 the term appears and inserting
12 “tribal”; and

13 (6) in subsection (f)—

14 (A) by striking “special domestic violence”
15 each place the term appears and inserting “spe-
16 cial tribal”;

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

21 “(A) a crime of domestic violence;

22 “(B) a crime of dating violence;

23 “(C) a crime of sexual violence;

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

1 “(E) a crime of stalking;
2 “(F) a crime of sex trafficking; or
3 “(G) a crime of related conduct;”; and
4 (C) in paragraph (4), by inserting “sexual
5 violence, stalking, sex trafficking,” after “dat-
6 ing violence,”.

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