

Union Calendar No. 532

116TH CONGRESS
2^D SESSION

H. R. 3977

[Report No. 116–648]

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. GALLEG0) introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 15, 2020

Additional sponsors: Mr. LUJÁN, Mr. FITZPATRICK, Ms. KUSTER of New Hampshire, Ms. TLAIB, Mr. KHANNA, Mr. KILDEE, Mr. HARDER of California, Mr. O'HALLERAN, Ms. MOORE, Ms. MCCOLLUM, Mr. CARTWRIGHT, and Mr. PERLMUTTER

DECEMBER 15, 2020

Reported from the Committee on Natural Resources; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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”.

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

9 Section 204 of Public Law 90–284 (25 U.S.C. 1304)
10 (commonly known as the “Indian Civil Rights Act of
11 1968”) is amended—

12 (1) in the section heading, by striking “**DO-**
13 **MESTIC VIOLENCE**” and inserting “**DOMESTIC,**
14 **DATING, OR SEXUAL VIOLENCE, SEX TRAF-**
15 **FICKING, OR STALKING**”;

16 (2) in subsection (a)—

17 (A) in paragraph (1), by striking “means
18 violence” and inserting “includes any violation
19 of the criminal law of the Indian tribe that has
20 jurisdiction over the Indian country where the
21 violation occurs that is”;

22 (B) in paragraph (2)—

23 (i) by striking “means violence” and
24 inserting “includes any violation of the
25 criminal law of the Indian tribe that has

1 jurisdiction over the Indian country where
2 the violation occurs that is”; and

3 (ii) by striking “an Indian tribe that
4 has jurisdiction over the Indian country
5 where the violence occurs” and inserting
6 “that Indian tribe”;

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

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

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

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

16 “(A) is a violation of the criminal law of
17 the Indian tribe that has jurisdiction over the
18 Indian country where the underlying offense oc-
19 curred; and

20 “(B) occurs in connection with the exercise
21 of special tribal criminal jurisdiction by that In-
22 dian tribe.

23 “(7) SEX TRAFFICKING.—

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

1 “(i) consisting of—

2 “(I) recruiting, enticing, har-
3 boring, transporting, providing, ob-
4 taining, advertising, maintaining, pa-
5 tronizing, or soliciting by any means a
6 person; or

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

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

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

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

24 “(B) DEFINITIONS.—In this paragraph,
25 the terms ‘coercion’ and ‘commercial sex act’

1 have the meanings given the terms in section
2 1591(e) of title 18, United States Code.

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

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

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

13 (ii) by striking “domestic violence”
14 and inserting “tribal”; and

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

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

19 “(A) to fear for his or her safety or the
20 safety of others; or

21 “(B) to suffer substantial emotional dis-
22 tress.”;

23 (3) in subsection (b)—

1 (A) by striking “domestic violence” each
 2 place the term appears and inserting “tribal”;
 3 and

4 (B) in paragraph (4)—

5 (i) by striking subparagraph (B);

6 (ii) by striking the paragraph designa-
 7 tion and heading and all that follows
 8 through “A participating” in clause (i) of
 9 subparagraph (A) and inserting the fol-
 10 lowing:

11 “(4) EXCEPTION FOR NON-INDIAN VICTIM AND
 12 DEFENDANT.—

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

14 (iii) by striking “(ii) DEFINITION OF
 15 VICTIM.—In this subparagraph” and in-
 16 serting the following:

17 “(B) DEFINITION OF VICTIM.—In this
 18 paragraph”;

19 (4) in subsection (c)—

20 (A) in the matter preceding paragraph (1),
 21 by striking “domestic violence” and inserting
 22 “tribal”;

23 (B) in paragraph (1)—

1 (i) in the paragraph heading, by strik-
2 ing “VIOLENCE AND DATING” and insert-
3 ing “, DATING, AND SEXUAL”; and

4 (ii) by striking “or dating violence”
5 and inserting “, dating violence, or sexual
6 violence”; and

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

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

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

13 “(5) RELATED CONDUCT.—An act of related
14 conduct that occurs in the Indian country of the
15 participating tribe.”;

16 (5) in subsection (d), by striking “domestic vio-
17 lence” each place the term appears and inserting
18 “tribal”; and

19 (6) in subsection (f)—

20 (A) by striking “special domestic violence”
21 each place the term appears and inserting “spe-
22 cial tribal”;

23 (B) in paragraph (2), by striking “pros-
24 ecutes” and all that follows through the semi-

1 colon at the end and inserting the following:
2 “prosecutes—
3 “(A) a crime of domestic violence;
4 “(B) a crime of dating violence;
5 “(C) a crime of sexual violence;
6 “(D) a criminal violation of a protection
7 order;
8 “(E) a crime of stalking;
9 “(F) a crime of sex trafficking; or
10 “(G) a crime of related conduct;”; and
11 (C) in paragraph (4), by inserting “sexual
12 violence, stalking, sex trafficking,” after “dat-
13 ing violence,”.

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