

116TH CONGRESS
1ST SESSION

H. R. 958

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2019

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 Labor, 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 the following:

8 (1) American Indians and Alaska Natives are
9 2.5 times more likely to experience violent crimes

1 and at least 2 times more likely to experience rape
2 or sexual assault crimes than people who are not
3 American Indians or Alaskan Natives.

4 (2) The vast majority of American Indian and
5 Alaska Native victims, 96 percent of female and 89
6 percent of male victims, report being victimized by
7 a non-Indian.

8 (3) According to a 2010 Government Account-
9 ability Office report, the Offices of the United States
10 Attorneys declined to prosecute nearly 52 percent of
11 violent crimes that occur in Indian country.

12 (4) More than 4 in 5 American Indian and
13 Alaska Native women have experienced violence in
14 their lifetime.

15 (5) According to the Centers for Disease Con-
16 trol and Prevention, homicide is the third leading
17 cause of death among American Indian and Alaska
18 Native women between 10 and 24 years of age and
19 the fifth leading cause of death for American Indian
20 and Alaska Native women between 25 and 34 years
21 of age.

22 (6) On some reservations, American Indian
23 women are murdered at more than 10 times the na-
24 tional average.

1 (7) Tribal prosecutors report that the majority
2 of domestic violence cases involve children either as
3 witnesses or victims, and the Department of Justice
4 reports that American Indian and Alaska Native
5 children suffer exposure to violence at some of the
6 highest rates in the United States.

7 (8) Childhood exposure to violence has imme-
8 diate and long-term effects, including increased rates
9 of altered neurological development, poor physical
10 and mental health, poor school performance, sub-
11 stance abuse, and overrepresentation in the juvenile
12 justice system.

13 (9) Violence against children and crimes associ-
14 ated with dating violence and domestic violence in-
15 crease the number of instances of trauma in Tribal
16 communities, which—

- 17 (A) affects health outcomes;
- 18 (B) reduces educational attainment;
- 19 (C) hinders economic growth; and
- 20 (D) undermines public safety.

21 (10) Domestic violence calls are among the
22 most dangerous calls that law enforcement receives,
23 and the Federal Bureau of Investigation’s Uniform
24 Crime Report shows that police officers, including
25 Tribal police officers, are assaulted when responding

1 to disturbance calls more often than under any other
2 circumstances.

3 (11) The complicated jurisdictional structure in
4 Indian country—

5 (A) requires a high degree of commitment
6 and cooperation among Tribal, Federal, and
7 State law enforcement officials; and

8 (B) when that cooperation breaks down,
9 results in a significant negative impact on the
10 ability to provide public safety to Indian com-
11 munities.

12 (12) The Indian Law and Order Commission,
13 established by Congress to review Federal criminal
14 justice policies and practices in Indian country,
15 issued a report in 2013 entitled “A Roadmap for
16 Making Native America Safer” that recommends the
17 restoration of the inherent authority of Tribal
18 courts.

19 (13) Restoring and enhancing local, Tribal ca-
20 pacity to address violent crimes provides for greater
21 local control, safety, accountability, and trans-
22 parency.

23 (14) Tribal communities should be able to pro-
24 tect themselves from dating violence, domestic vio-

1 lence, child violence, and violence committed against
2 members of the Tribal justice system.

3 **SEC. 3. PROTECTION OF NATIVE CHILDREN AND TRIBAL**
4 **COMMUNITIES.**

5 Section 204 of Public Law 90–284 (25 U.S.C. 1304)
6 is amended—

7 (1) in the section heading, by striking “**DO-**
8 **MESTIC VIOLENCE**” and inserting “**DOMESTIC**
9 **VIOLENCE, CHILD VIOLENCE, AND VIOLENCE**
10 **AGAINST LAW ENFORCEMENT OFFICERS**”;

11 (2) in subsection (a)—

12 (A) in paragraph (1), by striking “means
13 violence” and inserting “means covered con-
14 duct”;

15 (B) in paragraph (2)—

16 (i) by striking “means violence” and
17 inserting “means covered conduct”; and

18 (ii) by striking “where the violence oc-
19 curs” and inserting “where the covered
20 conduct occurs”;

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

23 (D) in paragraph (6)—

1 (i) in the paragraph heading, by strik-
2 ing “DOMESTIC VIOLENCE” and inserting
3 “TRIBAL”; and

4 (ii) by striking “domestic violence”
5 and inserting “tribal”;

6 (E) by redesignating paragraphs (6) and
7 (7) as paragraphs (12) and (13), respectively;

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

11 (G) by inserting before paragraph (6) (as
12 redesignated by subparagraph (F)) the fol-
13 lowing:

14 “(1) CAREGIVER.—The term ‘caregiver’
15 means—

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

18 “(B) the spouse or intimate partner of a
19 parent, guardian, or legal custodian of the
20 child;

21 “(C) any relative of the child, including a
22 parent, grandparent, great-grandparent, step-
23 parent, brother, sister, stepbrother, stepsister,
24 half-brother, or half-sister;

1 “(D) a person who resides or has resided
2 regularly or intermittently in the same dwelling
3 as the child;

4 “(E) a person who provides or has pro-
5 vided care for the child in or out of the home
6 of the child;

7 “(F) any person who exercises or has exer-
8 cised temporary or permanent control over the
9 child; or

10 “(G) any person who temporarily or per-
11 manently supervises or has supervised the child.

12 “(2) CHILD.—The term ‘child’ means a person
13 who has not attained the lesser of—

14 “(A) the age of 18; or

15 “(B) except in the case of sexual abuse,
16 the age specified by the child protection law of
17 the participating tribe that has jurisdiction over
18 the Indian country where the child resides.

19 “(3) CHILD VIOLENCE.—The term ‘child vio-
20 lence’ means covered conduct committed against a
21 child by a caregiver of the child.

22 “(4) COVERED CONDUCT.—The term ‘covered
23 conduct’ means conduct that—

1 “(A) involves the use, attempted use, or
2 threatened use of physical force against the per-
3 son or property of another; and

4 “(B) violates the criminal law of the In-
5 dian tribe that has jurisdiction over the Indian
6 country where the conduct occurs.

7 “(5) COVERED INDIVIDUAL.—The term ‘cov-
8 ered individual’ means an officer or employee of an
9 Indian tribe, or an individual authorized to act for
10 or on behalf of an Indian tribe or serving an Indian
11 tribe, who is—

12 “(A) authorized under law to—

13 “(i) engage in or supervise the preven-
14 tion, detection, investigation, arrest, pre-
15 trial detention, prosecution, or adjudication
16 of an offense or the sentencing, including
17 the probation, parole, incarceration, or re-
18 habilitation, of an individual; or

19 “(ii) serve as a probation or pretrial
20 services officer; and

21 “(B) carrying out an activity described in
22 paragraph (11)(C).”; and

23 (H) by inserting after paragraph (10) (as
24 redesignated by subparagraph (F)) the fol-
25 lowing:

“(11) RELATED CONDUCT.—The term ‘related conduct’ means a violation of the criminal law of an Indian tribe that is committed—

“(A) against a covered individual;

“(B) by a person—

“(i) who is subject to special tribal criminal jurisdiction; and

“(ii) has committed criminal conduct that falls into one or more of the categories described in paragraphs (1) and (2) of subsection (c); and

“(C) in the course of resisting or interfering with the prevention, detection, investigation, arrest, pretrial detention, prosecution, adjudication, or sentencing, including the probation, parole, incarceration, or rehabilitation, of that person relating to that criminal conduct.”; (3) in subsection (b)—

(A) by striking “domestic violence” each place it appears and inserting “tribal”; and

(B) in paragraph (4)(B)(iii), in the matter preceding subclause (I), by striking “, or dating partner” and inserting “, dating partner, or caregiver”;

(4) in subsection (c)—

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

4 (B) in paragraph (1)—

5 (i) in the paragraph heading, by strik-
6 ing “AND DATING VIOLENCE” and insert-
7 ing “, DATING VIOLENCE, AND CHILD VIO-
8 LENCE”; and

9 (ii) by striking “or dating violence”
10 and inserting “, dating violence, or child
11 violence”; and

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

13 “(3) 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 it appears and inserting “tribal”;

18 (6) in subsection (f)—

19 (A) by striking “special domestic violence”
20 each place it appears and inserting “special
21 tribal”;

22 (B) in paragraph (2), by striking “pros-
23 ecutes” and all that follows through the semi-
24 colon at the end and inserting the following:
25 “prosecutes—

1 “(A) a crime of domestic violence;
 2 “(B) a crime of dating violence;
 3 “(C) a crime of child violence;
 4 “(D) a criminal violation of a protection
 5 order; or
 6 “(E) a crime of related conduct;”; and
 7 (C) in paragraph (4), by inserting “child
 8 violence, related conduct,” after “dating vio-
 9 lence,”; and
 10 (7) in subsection (h), by striking “2014
 11 through 2018” and inserting “2018 through 2022”.

12 **SEC. 4. INCREASED INTERAGENCY COORDINATION.**

13 (a) IN GENERAL.—The Secretary of the Interior and
 14 the Secretary of Health and Human Services (referred to
 15 in this section as the “Secretaries”) shall coordinate with
 16 the Attorney General to ensure, to the maximum extent
 17 practicable, that Federal programs to support tribal jus-
 18 tice systems and to support provision of victim services
 19 for Indians are working effectively together to serve the
 20 needs of Indian tribes and Indians (as such terms are de-
 21 fined in section 4 of the Indian Self-Determination and
 22 Education Assistance Act (25 U.S.C. 5304)).

23 (b) COORDINATION OF FEDERAL INDIAN FACILITIES
 24 WITH NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT-
 25 EES.—The Secretaries shall ensure that information for

1 contacting any toll-free telephone hotline operated by re-
2 cipients of a grant authorized by section 313 of the Family
3 Violence Protective Services Act (42 U.S.C. 10413), is
4 posted and readily visible in each publicly accessible Fed-
5 eral facility utilized by—

- 6 (1) the Indian Health Services;
- 7 (2) the Bureau of Indian Affairs; or
- 8 (3) the Bureau of Indian Education.

9 (c) COORDINATION ON TRAINING FEDERAL INDIAN
10 PROGRAM EMPLOYEES TO RECOGNIZE AND RESPOND TO
11 DOMESTIC VIOLENCE.—The Secretaries (acting through
12 the Assistant Secretary for Indian Affairs, the Director
13 of the Bureau of Indian Education, and the Director of
14 the Indian Health Service) shall coordinate with the Direc-
15 tor of the Office on Violence Against Women of the De-
16 partment of Justice and the Associate Commissioner for
17 the Family and Youth Services Bureau of the Department
18 of Health and Human Services to ensure that training ma-
19 terials on recognizing and responding to domestic violence
20 are available to tribal and Federal employees of—

- 21 (1) the Indian Health Services;
- 22 (2) the Bureau of Indian Affairs; and
- 23 (3) the Bureau of Indian Education.

1 **SEC. 5. REPORT.**

2 (a) IN GENERAL.—The Secretary of the Interior
3 (acting through the Assistant Secretary for Indian Af-
4 fairs) and the Secretary of Health and Human Services
5 (acting through the Director of the Indian Health Service)
6 shall jointly submit a report to—

7 (1) the Committee on Indian Affairs of the Sen-
8 ate; and

9 (2) the Committee on Natural Resources of the
10 House of Representatives.

11 (b) CONTENTS OF THE REPORT.—The report re-
12 quired under subsection (a) shall include a description of
13 the degree of effectiveness of—

14 (1) Federal programs that are intended to build
15 the capacity of criminal justice systems of Indian
16 tribes to investigate and prosecute offenses relating
17 to dating violence, domestic violence, child violence,
18 and related conduct (as defined in section 204 of
19 Public Law 90–284 (25 U.S.C. 1304), as amended
20 by section 3(2));

21 (2) the required coordination activities required
22 under section 4, including compliance with the post-
23 ing of domestic violence victim service access infor-
24 mation required under section 4(b); and

25 (3) the interagency employee training material
26 development required under section 4(c).

1 (c) TIMING.—The Secretary of the Interior and the
2 Secretary of Health and Human Services shall submit the
3 report required under subsection (a) by not later than 4
4 years after the date of enactment of this Act.

○