

113-4; 127 Stat. 120), have reported significant success holding violent offenders accountable for crimes of domestic violence, dating violence, and civil protection order violations;

“(5) Tribal prosecutors for Indian Tribes exercising special domestic violence criminal jurisdiction report that the majority of domestic violence cases involve children either as witnesses or victims, and the Department of Justice reports that American Indian and Alaska Native children suffer exposure to violence at one of the highest rates in the United States;

“(6) childhood exposure to violence can have immediate and long-term effects, including increased rates of altered neurological development, poor physical and mental health, poor school performance, substance abuse, and overrepresentation in the juvenile justice system;

“(7) according to the Centers for Disease Control and Prevention, homicide is—

“(A) the third leading cause of death among American Indian and Alaska Native women between 10 and 24 years of age; and

“(B) the fifth leading cause of death for American Indian and Alaska Native women between 25 and 34 years of age;

“(8) in some areas of the United States, Native American women are murdered at rates more than 10 times the national average;

“(9) according to a 2017 report by the Department of Justice, 66 percent of criminal prosecutions for crimes in Indian country that United States Attorneys declined to prosecute involved assault, murder, or sexual assault;

“(10) investigation into cases of missing or murdered Indigenous women is made difficult for Tribal law enforcement agencies due to a lack of resources, including a lack of—

“(A) necessary personnel, training, equipment, or funding;

“(B) interagency cooperation;

“(C) appropriate laws in place; and

“(D) access to Federal law enforcement databases;

“(11) domestic violence calls are among the most dangerous calls that law enforcement receives;

“(12) the complicated jurisdictional scheme that exists in Indian country—

“(A) has a significant impact on public safety in Indian communities;

“(B) according to Tribal justice officials, has been increasingly exploited by criminals; and

“(C) requires a high degree of commitment and cooperation among Tribal, Federal, and State law enforcement officials;

“(13) restoring and enhancing Tribal capacity to address violence against women provides for greater local control, safety, accountability, and transparency;

“(14) Indian Tribes with restrictive settlement Acts, such as Indian Tribes in the State of Maine, and Indian Tribes located in States with concurrent authority to prosecute crimes in Indian country under the amendments made by the Act of August 15, 1953 (67 Stat. 590, chapter 506), face unique public safety challenges; and

“(15) Native Hawaiians experience a disproportionately high rate of human trafficking, with 64 percent of human trafficking victims in the State of Hawai‘i identifying as at least part Native Hawaiian.

“(b) PURPOSES.—The purposes of this subtitle [subtitle A (§§801-804) of title VIII of div. W of Pub. L. 117-103, see Tables for classification] are—

“(1) to clarify the responsibilities of Federal, State, Tribal, and local law enforcement agencies with respect to responding to cases of domestic violence, dating violence, stalking, sex trafficking, sexual violence, crimes against children, and assault against Tribal law enforcement officers;

“(2) to increase coordination and communication among Federal, State, Tribal, and local law enforcement agencies;

“(3) to empower Tribal governments and Native American communities, including urban Indian communities and Native Hawaiian communities, with the resources and information necessary to effectively respond to cases of domestic violence, dating violence, stalking, sex trafficking, sexual violence, and missing or murdered Native Americans; and

“(4) to increase the collection of data related to missing or murdered Native Americans and the sharing of information among Federal, State, Tribal, and local officials responsible for responding to and investigating crimes impacting Indian Tribes and Native American communities, including urban Indian communities and Native Hawaiian communities, especially crimes relating to cases of missing or murdered Native Americans.”

[For definitions of terms used in section 801 of div. W of Pub. L. 117-103, set out above, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117-103, which is set out as a note under section 12291 of Title 34].

§ 1305. Tribal jurisdiction in Alaska

(a) In general

Subject to title II of Public Law 90-284 (25 U.S.C. 1301 et seq.) (commonly known as the ‘Indian Civil Rights Act of 1968’), Congress recognizes and affirms the inherent authority of any Indian tribe occupying a Village in the State to exercise criminal and civil jurisdiction over all Indians present in the Village.

(b) Tribal civil jurisdiction to enforce protection orders

(1) In general

A court of any Indian tribe in the State shall have full civil jurisdiction to issue and enforce protection orders involving any person in matters—

(A) arising within the Village of the Indian tribe; or

(B) otherwise within the authority of the Indian tribe.

(2) Inclusions

The full civil jurisdiction to issue and enforce protection orders under paragraph (1) includes the authority to enforce protection orders through—

(A) civil contempt proceedings;

(B) exclusion of violators from the Village of the Indian tribe; and

(C) other appropriate mechanisms.

(c) Special Tribal criminal jurisdiction

(1) In general

Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed under subsection (a), the powers of self-government of a participating Tribe include the inherent power of the participating Tribe, which is hereby recognized and affirmed, to exercise special Tribal criminal jurisdiction over a defendant for a covered crime that occurs in the Village of the participating Tribe.

(2) Concurrent jurisdiction

The exercise of special Tribal criminal jurisdiction by a participating Tribe shall be concurrent with the jurisdiction of the United States, the State, or both.

(3) Exception if victim and defendant are both non-Indians

(A) In general

A participating Tribe may not exercise special Tribal criminal jurisdiction over an alleged offense of a covered crime, other than obstruction of justice or assault of Tribal justice personnel, if neither the defendant nor the alleged victim is an Indian.

(B) Definition of victim

In this paragraph and with respect to a criminal proceeding in which a participating Tribe exercises special Tribal criminal jurisdiction based on a violation of a protection order, the term “victim” means a person specifically protected by the protection order that the defendant allegedly violated.

(d) Pilot program for special Tribal criminal jurisdiction over persons who are not Indians

(1) Establishment

Subject to title II of Public Law 90–284 (25 U.S.C. 1301 et seq.) (commonly known as the “Indian Civil Rights Act of 1968”), there is established a pilot program under which the Attorney General, subject to paragraph (5), shall designate not more than 5 Indian tribes per calendar year as participating Tribes to exercise the special Tribal criminal jurisdiction described in paragraph (6) over all persons present in the Village of the Indian tribe.

(2) Procedure

At any time during the 1-year period beginning on March 15, 2022, and annually thereafter, an Indian tribe may request the Attorney General to designate the Indian tribe as a participating Tribe under paragraph (1).

(3) Designation of participating tribes

(A) In general

The Attorney General, in consultation with the Secretary of the Interior and affected Indian tribes, shall establish a process to designate Indian tribes to participate in the pilot program, which process shall—

(i) require that preference shall be given to Indian tribes occupying Villages—

(I) the populations of which are predominantly Indian; and

(II) that lack a permanent State law enforcement physical presence;

(ii) require that for each Indian tribe requesting to be designated as a participating Tribe, the Attorney General makes a determination that the criminal justice system of the Indian tribe has adequate safeguards in place to protect defendants’ rights, consistent with section 204(d) of Public Law 90–284 (25 U.S.C. 1304(d)) (commonly known as the “Indian Civil Rights Act of 1968”); and

(iii) be subject to such other criteria as the Attorney General considers to be appropriate to achieve the purposes of this subtitle.

(B) Designation

The Attorney General shall designate Indian tribes to participate in the pilot pro-

gram under paragraph (1) using the process established under subparagraph (A).

(4) Intertribal participation

(A) In general

2 or more participating Tribes (or the Tribal organization (as defined in section 5304 of this title) of the participating Tribe, if the Tribal organization is exercising delegated authority from the participating Tribe)—

(i) may elect to participate jointly in the pilot program by providing shared resources to carry out the purposes of the pilot program; and

(ii) on making an election pursuant to clause (i), shall be considered to be a single participating Tribe for purposes of the maximum number of participating Tribes under paragraphs (1) and (5).

(B) Additional participating tribes

(i) In general

Additional participating Tribes may elect to join an established intertribal partnership under subparagraph (A) at any time after the intertribal partnership is established.

(ii) Application

An intertribal partnership that additional participating Tribes elect to join pursuant to clause (i) shall be considered to be a single participating Tribe for purposes of the maximum number of participating Tribes under paragraphs (1) and (5).

(5) Maximum number of participating tribes

(A) In general

Except as provided in subparagraph (B), the Attorney General may designate not more than 30 Indian tribes to participate in the pilot program.

(B) Exception

The limitation under subparagraph (A) shall not apply if the Attorney General submits to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives, and publishes in the Federal Register, a written notice of the intention to designate additional Indian tribes as participating Tribes, including the rationale for the designation, by not later than the date that is 180 days before the date of designation.

(6) Description of jurisdiction

Congress recognizes and affirms that an Indian tribe selected to participate in the pilot program as a participating Tribe may exercise, subject to paragraph (7), special Tribal criminal jurisdiction with respect to covered crimes.

(7) Rights of defendants

In exercising special Tribal criminal jurisdiction under the pilot program, a participating Tribe shall provide to each defendant all rights described in section 204(d) of Public Law 90–284 (25 U.S.C. 1304(d)) (commonly known as the “Indian Civil Rights Act of 1968”).

(e) Sentences

In a criminal proceeding in which an Indian court of a participating Tribe, in exercising special Tribal criminal jurisdiction with respect to a covered crime, imposes a sentence of imprisonment of more than 1 year on a defendant pursuant to section 202(b) of Public Law 90-284 (25 U.S.C. 1302(b)) (commonly known as the “Indian Civil Rights Act of 1968”), the Indian court may require the defendant—

(1) to serve a sentence—

(A) in a Tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines set by the Bureau of Indian Affairs;

(B) at the expense of the United States, in the nearest appropriate Federal facility pursuant to the Bureau of Prisons Tribal Prisoner Program established under section 1302a(c)(1) of this title; or

(C) at the expense of the participating Tribe and, subject to section 204(f)(1) of Public Law 90-284 (25 U.S.C. 1304(f)(1)) (commonly known as the “Indian Civil Rights Act of 1968”), reimbursable by the Attorney General, in a detention or correctional center approved by the State or a local government of the State pursuant to a memorandum of agreement between the participating Tribe and the State or local government of the State; or

(2) to serve another alternative form of punishment, as determined by the Indian court pursuant to Tribal law.

(f) Memoranda of agreement

The Attorney General and the Secretary of the Interior may enter into such memoranda of agreement with participating Tribes and the State as are necessary and appropriate—

(1) to coordinate respective law enforcement activities;

(2) to share equipment and other resources;

(3) to establish cross-deputization arrangements;

(4) to coordinate appropriate training activities; and

(5) to address any other matters that will facilitate the successful implementation of the pilot program, including intergovernmental agreements regarding—

(A) the incarceration of convicted persons; and

(B) cooperation in the investigation and prosecution of crimes.

(g) Alaska Tribal Public Safety Advisory Committee**(1) Establishment**

Not later than 1 year March 15, 2022, the Attorney General, in consultation with the Secretary of the Interior, affected Indian tribes, and the State, shall establish a committee, to be known as the “Alaska Tribal Public Safety Advisory Committee” (referred to in this subsection as the “Committee”).

(2) Membership

The Committee shall consist of 1 or more representatives from—

(A) participating Tribes and Indian tribes aspiring to participate in the pilot program;

(B) Federal, Tribal, State, and local law enforcement; and

(C) Tribal nonprofit organizations providing victim services.

(3) Duties

The Committee shall focus on—

(A) improving the justice systems, crime prevention, and victim services of Indian tribes and the State; and

(B) increasing coordination and communication among Federal, Tribal, State, and local law enforcement agencies.

(4) Travel expenses

A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Committee.

(5) Nonapplicability of FACA

The Federal Advisory Committee Act (5 U.S.C. App.)¹ shall not apply to the Committee.

(6) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as may be necessary for the period of fiscal years 2023 through 2027, to remain available until expended.

(h) Report to Congress

Not later than 5 years after March 15, 2022, the Attorney General, in consultation with the Secretary of the Interior and affected Indian tribes, shall submit to Congress a report describing the results of the pilot program, including an explanation of any modifications to law necessary to facilitate improved law enforcement in Villages.

(i) Applicability

Nothing in this subtitle—

(1) limits, alters, expands, or diminishes the civil or criminal jurisdiction of the United States, the State, any subdivision of the State, or any Indian tribe in the State;

(2) creates or eliminates any Federal or State criminal jurisdiction over a Village; or

(3) affects the authority of the United States or any authority delegated by the United States to the State to investigate and prosecute a criminal violation in a Village.

(Pub. L. 117-103, div. W, title VIII, §813, Mar. 15, 2022, 136 Stat. 906.)

Editorial Notes

REFERENCES IN TEXT

The Indian Civil Rights Act of 1968, referred to in subsecs. (a) and (d)(1), is title II of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 77, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

This subtitle, referred to in subsecs. (d)(3)(A)(iii) and (i), is subtitle B (§§ 811-813) of title VIII of div. W of Pub.

¹ See References in Text note below.

L. 117-103, Mar. 15, 2022, 136 Stat. 904, which enacted this section and provisions set out as notes below. For complete classification of subtitle B to the Code, see Tables.

The Federal Advisory Committee Act, referred to in subsec. (g)(5), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§ 1001 et seq.) of Title 5 by Pub. L. 117-286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

CODIFICATION

Section was enacted as part of the Violence Against Women Act Reauthorization Act of 2022, and not as part of Indian Civil Rights Act of 1968 which comprises this subchapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117-103, set out as a note under section 6851 of Title 15, Commerce and Trade.

FINDINGS; PURPOSES

Pub. L. 117-103, div. W, title VIII, §811, Mar. 15, 2022, 136 Stat. 904, provided that:

“(a) FINDINGS.—Congress finds that—

“(1) according to the report of the Indian Law and Order Commission established by section 15 of the Indian Law Enforcement Reform Act (25 U.S.C. 2812), Alaska Native women—

“(A) are overrepresented in the domestic violence victim population by 250 percent;

“(B) in the State of Alaska, comprise—

“(i) 19 percent of the population of the State; but

“(ii) 47 percent of reported rape victims in the State; and

“(C) as compared to the populations of other Indian Tribes, suffer the highest rates of domestic and sexual violence;

“(2) most Alaska Native villages are located in remote areas that—

“(A) are often inaccessible by road; and

“(B) have no local law enforcement presence;

“(3) the Commission referred to in paragraph (1)—

“(A) determined that the Alaska Department of Public Safety—

“(i) has primary responsibility for law enforcement in rural Alaska; but

“(ii) provides only 1 to 1.4 field officers per 1,000,000 acres; and

“(B) recommended that ‘devolving authority to Alaska Native communities is essential for addressing local crime. Their governments are best positioned to effectively arrest, prosecute, and punish, and they should have the authority to do so or to work out voluntary agreements with each other, and with local governments and the State on mutually beneficial terms’; and

“(4) the unique legal relationship of the United States to Indian Tribes creates a Federal trust responsibility to assist Tribal governments in safeguarding the lives of Indian women.

“(b) PURPOSES.—The purposes of this subtitle [subtitle B (§§811-813) of title VIII of div. W of Pub. L. 117-103, Mar. 15, 2022, 136 Stat. 904, which enacted this section and provisions set out as a note below] are—

“(1) to increase coordination and communication among Federal, State, Tribal, and local law enforcement agencies; and

“(2) to empower Indian Tribes to effectively respond to cases of domestic violence, dating violence, stalking, sex trafficking, sexual violence, and missing

or murdered Alaska Natives through the exercise of special Tribal criminal jurisdiction.”

[For definitions of terms used in section 811 of div. W of Pub. L. 117-103, set out above, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117-103, which is set out as a note under section 12291 of Title 34].

DEFINITIONS

For definitions of terms used in this section, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117-103, which is set out as a note under section 12291 of Title 34.

Pub. L. 117-103, div. W, title VIII, §812, Mar. 15, 2022, 136 Stat. 905, provided that: “In this subtitle [subtitle B (§§811-813) of title VIII of div. W of Pub. L. 117-103, Mar. 15, 2022, 136 Stat. 904, which enacted this section and provisions set out as a note above]:

“(1) ASSAULT OF TRIBAL JUSTICE PERSONNEL; COVERED CRIME; OBSTRUCTION OF JUSTICE; PROTECTION ORDER; VIOLATION OF A PROTECTION ORDER.—

“(A) IN GENERAL.—The terms ‘assault of Tribal justice personnel’, ‘covered crime’, ‘obstruction of justice’, ‘protection order’, and ‘violation of a protection order’ have the meanings given the terms in section 204(a) of Public Law 90-284 (25 U.S.C. 1304(a)) (commonly known as the ‘Indian Civil Rights Act of 1968’).

“(B) APPLICATION.—For purposes of the application of the definitions of ‘assault of Tribal justice personnel’, ‘obstruction of justice’, and ‘violation of a protection order’, and for purposes of the application of the defined terms contained in the definition of ‘covered crime’, under section 204(a) of Public Law 90-284 (25 U.S.C. 1304(a)) (commonly known as the ‘Indian Civil Rights Act of 1968’) to the pilot program, the Attorney General shall modify any reference to ‘Indian country’ to mean the Village of a participating Tribe.

“(2) INDIAN; INDIAN COURT; INDIAN TRIBE; POWERS OF SELF-GOVERNMENT.—The terms ‘Indian’, ‘Indian court’, ‘Indian tribe’, and ‘powers of self-government’ have the meanings given the terms in section 201 of Public Law 90-284 (25 U.S.C. 1301) (commonly known as the ‘Indian Civil Rights Act of 1968’).

“(3) PARTICIPATING TRIBE.—The term ‘participating Tribe’ means an Indian tribe that is designated under section 813(d)(1) [25 U.S.C. 1305(d)(1)] as a participating Tribe to exercise special Tribal criminal jurisdiction.

“(4) PILOT PROGRAM.—The term ‘pilot program’ means the pilot program established by section 813(d)(1).

“(5) SPECIAL TRIBAL CRIMINAL JURISDICTION.—The term ‘special Tribal criminal jurisdiction’ means the criminal jurisdiction that a participating Tribe may exercise under this subtitle but could not otherwise exercise.

“(6) STATE.—The term ‘State’ means the State of Alaska.

“(7) VILLAGE.—The term ‘Village’ means the Alaska Native Village Statistical Area covering all or any portion of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), as depicted on the applicable Tribal Statistical Area Program Verification map of the Bureau of the Census.”

SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

§ 1311. Model code

The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any