

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Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.)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

individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this subchapter, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

(Pub. L. 90-284, title III, §301, Apr. 11, 1968, 82 Stat. 78.)

§ 1312. Authorization of appropriations

There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 90-284, title III, §302, Apr. 11, 1968, 82 Stat. 78.)

SUBCHAPTER III—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

§ 1321. Assumption by State of criminal jurisdiction

(a) Consent of United States

(1) In general

The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(2) Concurrent jurisdiction

At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18 within the Indian country of the Indian tribe.

(b) Alienation, encumbrance, taxation, and use of property; hunting, trapping, or fishing

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the

United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(Pub. L. 90-284, title IV, §401, Apr. 11, 1968, 82 Stat. 78; Pub. L. 111-211, title II, §221(a), July 29, 2010, 124 Stat. 2271.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-211 substituted “Assumption by State of criminal jurisdiction” for “Assumption by State” in section catchline, inserted subsec. (a) heading, inserted par. (1) designation and heading, and added par. (2). Amendment to section catchline was executed as the probable intent of Congress, notwithstanding directory language which erroneously directed the amendment to subsec. (a).

§ 1322. Assumption by State of civil jurisdiction

(a) Consent of United States; force and effect of civil laws

The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Alienation, encumbrance, taxation, use, and probate of property

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Force and effect of tribal ordinances or customs

Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or