

117TH CONGRESS
1ST SESSION

S. 3337

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2021

Mr. LUJÁN (for himself and Ms. SMITH) introduced the following bill; which
was read twice and referred to the Committee on Indian Affairs

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
10 and at least 2 times more likely to experience rape
11 or sexual assault crimes.

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

5 (3) According to a 2010 Government Account-
6 ability Office report, United States Attorneys de-
7 clined to prosecute nearly 52 percent of violent
8 crimes that occur in Indian country.

9 (4) More than 4 in 5 American Indian and
10 Alaska Native women have experienced violence in
11 their lifetime.

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

19 (6) On some reservations, American Indian
20 women are murdered at more than 10 times the na-
21 tional average.

22 (7) Tribal prosecutors report that the majority
23 of domestic violence cases involve children either as
24 witnesses or victims, and the Department of Justice
25 reports that American Indian and Alaska Native

1 children suffer exposure to violence at some of the
2 highest rates in the United States.

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

9 (9) Violence against children and crimes associ-
10 ated with dating violence and domestic violence in-
11 crease the number of instances of trauma in Tribal
12 communities, which—

13 (A) affects health outcomes;

14 (B) reduces educational attainment;

15 (C) hinders economic growth; and

16 (D) undermines public safety.

17 (10) Domestic violence calls are among the
18 most dangerous calls that law enforcement receives,
19 and the Federal Bureau of Investigation's Uniform
20 Crime Report shows that police officers, including
21 Tribal police officers, are assaulted when responding
22 to disturbance calls more often than under any other
23 circumstances.

24 (11) The complicated jurisdictional structure in
25 Indian country—

1 (A) requires a high degree of commitment
2 and cooperation among Tribal, Federal, and
3 State law enforcement officials; and

4 (B) when that cooperation breaks down,
5 results in a significant negative impact on the
6 ability to provide public safety to Indian com-
7 munities.

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

15 (13) Restoring and enhancing local, Tribal ca-
16 pacity to address violent crimes provides for greater
17 local control, safety, accountability, and trans-
18 parency.

19 (14) Tribal communities should be able to pro-
20 tect themselves from dating violence, domestic vio-
21 lence, child violence, and violence committed against
22 members of the Tribal justice system.

1 **SEC. 3. TRIBAL JURISDICTION OVER COVERED CRIMES.**

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

5 (1) in the section heading—

6 (A) by striking “**OF DOMESTIC VIO-**
 7 **LENCE**”; and

8 (B) by inserting “**COVERED**” before
 9 “**CRIMES**”;

10 (2) in subsection (a)—

11 (A) by striking paragraph (1) and insert-
 12 ing the following:

13 “(1) **DATING VIOLENCE.**—The term ‘dating vio-
 14 lence’ means any violation of the criminal law of the
 15 Indian tribe that has jurisdiction over the Indian
 16 country where the violation occurs that was com-
 17 mitted by a person who is or has been in a social
 18 relationship of a romantic or intimate nature with
 19 the victim, as determined by the length of the rela-
 20 tionship, the type of relationship, and the frequency
 21 of interaction between the persons involved in the re-
 22 lationship.”;

23 (B) by striking paragraph (2);

24 (C) by redesignating paragraphs (1), (3),
 25 (4), (5), (6), and (7) as paragraphs (5), (7),
 26 (9), (10), (11), and (12), respectively;

1 (D) by inserting before paragraph (5) (as
2 so redesignated) the following:

3 “(1) ASSAULT OF TRIBAL JUSTICE PER-
4 SONNEL.—The term ‘assault of tribal justice per-
5 sonnel’ means any violation of the criminal law of
6 the Indian tribe that has jurisdiction over the Indian
7 country where the violation occurs that involves the
8 use, attempted use, or threatened use of physical
9 force against an individual authorized to act for, or
10 on behalf of, that Indian tribe or serving that Indian
11 tribe during, or because of, the performance of du-
12 ties of that individual in—

13 “(A) preventing, detecting, investigating,
14 making arrests relating to, making apprehen-
15 sions for, or prosecuting a covered crime;

16 “(B) adjudicating, participating in the ad-
17 judication of, or supporting the adjudication of
18 a covered crime;

19 “(C) detaining, providing supervision for,
20 or providing services for persons charged with
21 a covered crime; or

22 “(D) incarcerating, supervising, providing
23 treatment for, providing rehabilitation services
24 for, or providing reentry services for persons
25 convicted of a covered crime.

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

3 “(A) the age of 18; and

4 “(B) except in the case of sexual abuse,
5 the age specified by the criminal law of the In-
6 dian tribe that has jurisdiction over the Indian
7 country where the violation occurs.

8 “(3) CHILD VIOLENCE.—The term ‘child vio-
9 lence’ means the use, threatened use, or attempted
10 use of violence against a child proscribed by the
11 criminal law of the Indian tribe that has jurisdiction
12 over the Indian country where the violation occurs.

13 “(4) COVERED CRIME.—The term ‘covered
14 crime’ means—

15 “(A) assault of tribal justice personnel;

16 “(B) child violence;

17 “(C) dating violence;

18 “(D) domestic violence;

19 “(E) obstruction of justice; and

20 “(F) a violation of a protection order.”;

21 (E) by inserting after paragraph (5) (as so
22 redesignated) the following:

23 “(6) DOMESTIC VIOLENCE.—The term ‘domes-
24 tic violence’ means any violation of the criminal law
25 of the Indian tribe that has jurisdiction over the In-

1 dian country where the violation occurs that is com-
2 mitted by—

3 “(A) a current or former spouse or inti-
4 mate partner of the victim;

5 “(B) a person with whom the victim shares
6 a child in common;

7 “(C) a person who is cohabitating with or
8 has cohabitated with the victim as a spouse or
9 intimate partner; or

10 “(D) a person similarly situated to a
11 spouse of the victim under the domestic- or
12 family-violence laws of the Indian tribe that has
13 jurisdiction over the Indian country where the
14 violation occurs.”;

15 (F) by inserting after paragraph (7) (as so
16 redesignated) the following:

17 “(8) OBSTRUCTION OF JUSTICE.—The term
18 ‘obstruction of justice’ means any violation—

19 “(A) of the criminal law of the Indian tribe
20 that has jurisdiction over the Indian country
21 where the violation occurs; and

22 “(B) that involves interfering with the ad-
23 ministration or due process of the laws of the
24 Indian tribe, including any tribal criminal pro-
25 ceeding or investigation of a crime.”;

1 (G) in paragraph (9) (as so redesignated),
 2 by striking “domestic violence” and inserting
 3 “tribal”;

4 (H) in paragraph (11) (as so redesignated)—
 5

6 (i) in the paragraph heading, by striking
 7 “DOMESTIC VIOLENCE” and inserting
 8 “TRIBAL”; and

9 (ii) by striking “domestic violence”
 10 and inserting “tribal”; and

11 (I) by adding at the end the following:

12 “(13) VIOLATION OF A PROTECTION ORDER.—

13 The term ‘violation of a protection order’ means an
 14 act that—

15 “(A) occurs in the Indian country of the
 16 participating tribe; and

17 “(B) violates a provision of a protection
 18 order that—

19 “(i) prohibits or provides protection
 20 against violent or threatening acts or har-
 21 assment against, sexual violence against,
 22 contact or communication with, or physical
 23 proximity to, another person;

24 “(ii) was issued against the defend-
 25 ant;

1 “(iii) is enforceable by the partici-
 2 pating tribe; and

3 “(iv) is consistent with section
 4 2265(b) of title 18, United States Code.”;
 5 (3) in subsection (b)—

6 (A) by striking “domestic violence” each
 7 place the term appears and inserting “tribal”;

8 (B) in paragraph (1), by inserting “, in-
 9 cluding any participating tribe in the State of
 10 Maine,” before “include”; and

11 (C) in paragraph (4)—

12 (i) in subparagraph (A)(i), by insert-
 13 ing “, other than obstruction of justice or
 14 assault of tribal justice personnel,” after
 15 “offense”; and

16 (ii) in subparagraph (B)(iii), in the
 17 matter preceding subclause (I), by striking
 18 “, or dating partner” and inserting “, dat-
 19 ing partner, or caregiver”;

20 (4) by striking subsection (c) and inserting the
 21 following:

22 “(c) CRIMINAL CONDUCT.—A participating tribe may
 23 exercise special tribal criminal jurisdiction over a defend-
 24 ant for a covered crime that occurs in the Indian country
 25 of the participating tribe.”;

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

4 (6) by striking subsections (f) through (h) and
 5 inserting the following:

6 “(f) GRANTS AND REIMBURSEMENT TO TRIBAL GOV-
 7 ERNMENTS.—

8 “(1) REIMBURSEMENT.—

9 “(A) IN GENERAL.—The Attorney General
 10 may reimburse Tribal government authorities
 11 (or an authorized designee of a Tribal govern-
 12 ment) for expenses incurred in exercising spe-
 13 cial tribal criminal jurisdiction.

14 “(B) ELIGIBLE EXPENSES.—Eligible ex-
 15 penses for reimbursement shall include expenses
 16 and costs incurred in, relating to, or associated
 17 with—

18 “(i) investigating, making arrests re-
 19 lating to, making apprehensions for, or
 20 prosecuting covered crimes (including costs
 21 involving the purchasing, collecting, and
 22 processing of sexual assault forensic mate-
 23 rials);

24 “(ii) detaining, providing supervision
 25 of, or providing services for persons

1 charged with covered crimes (including
 2 costs associated with providing health
 3 care);

4 “(iii) providing indigent defense serv-
 5 ices for 1 or more persons charged with 1
 6 or more covered crimes; and

7 “(iv) incarcerating, supervising, or
 8 providing treatment, rehabilitation, or re-
 9 entry services for 1 or more persons
 10 charged with 1 or more covered crimes.

11 “(C) PROCEDURE.—

12 “(i) IN GENERAL.—Reimbursements
 13 authorized under subparagraph (A) shall
 14 be in accordance with rules promulgated by
 15 the Attorney General, after consultation
 16 with Indian tribes, and within 1 year after
 17 the date of enactment of the Native Youth
 18 and Tribal Officer Protection Act.

19 “(ii) MAXIMUM REIMBURSEMENT.—
 20 The rules promulgated by the Attorney
 21 General under clause (i)—

22 “(I) shall set a maximum allow-
 23 able reimbursement to any Tribal gov-
 24 ernment (or authorized designee of

1 any Tribal government) in a 1-year
2 period; and

3 “(II) may allow the Attorney
4 General—

5 “(aa) to establish conditions
6 under which a Tribal government
7 (or an authorized designee of a
8 Tribal government) may seek a
9 waiver of the maximum allowable
10 reimbursement requirement es-
11 tablished under subclause (I);
12 and

13 “(bb) waive the maximum
14 allowable reimbursement require-
15 ment established under subclause
16 (I) for a Tribal government (or
17 an authorized designee of a Trib-
18 al government) if the conditions
19 established by the Attorney Gen-
20 eral under item (aa) are met by
21 that Tribal government (or au-
22 thorized designee).

23 “(iii) TIMELINESS OF REIMBURSE-
24 MENTS.—To the maximum extent prac-
25 ticable, the Attorney General shall—

1 “(I) not later than 90 days after
2 the date on which the Attorney Gen-
3 eral receives a qualifying reimburse-
4 ment request from a Tribal govern-
5 ment (or an authorized designee of a
6 Tribal government)—

7 “(aa) reimburse the Tribal
8 government (or authorized des-
9 ignee); or

10 “(bb) notify the Tribal gov-
11 ernment (or authorized designee)
12 of the reason why the Attorney
13 General was unable to issue the
14 reimbursement; and

15 “(II) not later than 30 days after
16 the date on which a Tribal govern-
17 ment (or an authorized designee of a
18 Tribal government) reaches the an-
19 nual maximum allowable reimburse-
20 ment for the Tribal government (or
21 authorized designee) established by
22 the Attorney General under clause
23 (ii)(I), notify the Tribal government
24 (or authorized designee) that the
25 Tribal government has reached its an-

1 nual maximum allowable reimburse-
2 ment.

3 “(2) GRANTS.—The Attorney General may
4 award grants to the governments of Indian tribes (or
5 to authorized designees of those governments)—

6 “(A) to strengthen tribal criminal justice
7 systems to assist Indian tribes in exercising
8 special tribal criminal jurisdiction, including
9 for—

10 “(i) law enforcement, including the
11 capacity of law enforcement, court per-
12 sonnel, or other non-law enforcement enti-
13 ties that have no Federal or State arrest
14 authority agencies but have been des-
15 ignated by an Indian tribe as responsible
16 for maintaining public safety within the
17 territorial jurisdiction of the Indian tribe,
18 to enter information into and obtain infor-
19 mation from national crime information
20 databases;

21 “(ii) prosecution;

22 “(iii) trial and appellate courts, in-
23 cluding facilities maintenance, renovation,
24 rehabilitation, and construction;

1 “(iv) supervision and probation sys-
2 tems;

3 “(v) detention and correctional facili-
4 ties, including facilities maintenance, ren-
5 ovation, rehabilitation, and construction;

6 “(vi) treatment, rehabilitation, and re-
7 entry programs and services;

8 “(vii) culturally appropriate services
9 and assistance for victims and their fami-
10 lies; and

11 “(viii) criminal codes and rules of
12 criminal procedure, appellate procedure,
13 and evidence;

14 “(B) to provide indigent criminal defend-
15 ants with the effective assistance of licensed de-
16 fense counsel, at no cost to the defendant, in
17 criminal proceedings in which a participating
18 tribe prosecutes covered crimes;

19 “(C) to ensure that, in criminal pro-
20 ceedings in which a participating tribe exercises
21 special tribal criminal jurisdiction, jurors are
22 summoned, selected, and instructed in a man-
23 ner consistent with all applicable requirements;
24 and

1 “(D) to accord victims of covered crimes
2 rights that are similar to the rights of a crime
3 victim described in section 3771(a) of title 18,
4 United States Code, consistent with tribal law
5 and custom.

6 “(g) SUPPLEMENT, NOT SUPPLANT.—Amounts
7 made available under subsection (f)(2) shall supplement
8 and not supplant any other Federal, State, or local govern-
9 ment amounts made available to carry out activities de-
10 scribed in this section.

11 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated \$15,000,000 for each of
13 fiscal years 2023 through 2027 to carry out subsection
14 (f) and to provide training, technical assistance, data col-
15 lection, and evaluation of the criminal justice systems of
16 participating tribes.

17 “(i) USE OF FUNDS.—Of the funds appropriated
18 under this section for each fiscal year—

19 “(1) not less than 25 percent, but not more
20 than 40 percent, shall be used for the purposes de-
21 scribed in subsection (f)(1); and

22 “(2) not less than 25 percent shall be used for
23 the purposes described in subsection (f)(2).”.

1 **SEC. 4. INCREASED INTERAGENCY COORDINATION.**

2 (a) IN GENERAL.—The Secretary of the Interior and
 3 the Secretary of Health and Human Services (referred to
 4 in this section as the “Secretaries”) shall coordinate with
 5 the Attorney General to ensure, to the maximum extent
 6 practicable, that Federal programs to support Tribal jus-
 7 tice systems and to support provision of victim services
 8 for Indians are working effectively together to serve the
 9 needs of Indian Tribes and Indians (as the terms are de-
 10 fined in section 4 of the Indian Self-Determination and
 11 Education Assistance Act (25 U.S.C. 5304)).

12 (b) COORDINATION OF FEDERAL INDIAN FACILITIES
 13 WITH NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT-
 14 EES.—The Secretaries shall ensure that information for
 15 contacting any toll-free telephone hotline operated by re-
 16 cipients of a grant authorized by section 313 of the Family
 17 Violence Protective Services Act (42 U.S.C. 10413) is
 18 posted and readily visible in each publicly accessible Fed-
 19 eral facility utilized by—

- 20 (1) the Indian Health Service;
- 21 (2) the Bureau of Indian Affairs; or
- 22 (3) the Bureau of Indian Education.

23 (c) COORDINATION ON TRAINING FEDERAL INDIAN
 24 PROGRAM EMPLOYEES TO RECOGNIZE AND RESPOND TO
 25 DOMESTIC VIOLENCE.—The Secretaries (acting through
 26 the Assistant Secretary for Indian Affairs, the Director

1 of the Bureau of Indian Education, and the Director of
2 the Indian Health Service) shall coordinate with the Direc-
3 tor of the Office on Violence Against Women of the De-
4 partment of Justice and the Associate Commissioner for
5 the Family and Youth Services Bureau of the Department
6 of Health and Human Services to ensure that training ma-
7 terials on recognizing and responding to domestic violence
8 are available to Tribal and Federal employees of—

- 9 (1) the Indian Health Service;
10 (2) the Bureau of Indian Affairs; and
11 (3) the Bureau of Indian Education.

12 **SEC. 5. REPORT.**

13 (a) IN GENERAL.—The Secretary of the Interior
14 (acting through the Assistant Secretary for Indian Af-
15 fairs), the Secretary of Health and Human Services (act-
16 ing through the Director of the Indian Health Service),
17 and the Attorney General shall jointly submit a report
18 to—

- 19 (1) the Committee on Indian Affairs of the Sen-
20 ate; and
21 (2) the Committee on Natural Resources of the
22 House of Representatives.

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

1 (1) Federal programs that are intended to build
2 the capacity of criminal justice systems of Indian
3 tribes to investigate and prosecute offenses relating
4 to dating violence, domestic violence, and child vio-
5 lence (as defined in section 204(a) of Public Law
6 90–284 (25 U.S.C. 1304(a)) (commonly known as
7 the “Indian Civil Rights Act of 1968”)) and related
8 conduct;

9 (2) the coordination activities required under
10 section 4, including compliance with the posting of
11 domestic violence victim service access information
12 required under section 4(b); and

13 (3) the interagency employee training material
14 development required under section 4(c).

15 (c) TIMING.—The Secretary of the Interior, the Sec-
16 retary of Health and Human Services, and the Attorney
17 General shall submit the report required under subsection
18 (a) by not later than 4 years after the date of enactment
19 of this Act.

○