

## Union Calendar No. 532

116TH CONGRESS  
2D 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.

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### 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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