

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To decrease the incidence of violent crimes against Indian women, to strengthen the capacity of Indian tribes to exercise the sovereign authority of Indian tribes to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for that criminal behavior, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To decrease the incidence of violent crimes against Indian women, to strengthen the capacity of Indian tribes to exercise the sovereign authority of Indian tribes to respond to violent crimes committed against Indian women, and to ensure that perpetrators of violent crimes committed against Indian women are held accountable for that criminal behavior, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Violence Against Native American Women Act of 2011”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GRANT PROGRAMS

Sec. 101. Grants to Indian tribal governments.

Sec. 102. Tribal coalition grants.

Sec. 103. Consultation.

Sec. 104. Analysis and research on violence against women.

Sec. 105. Definitions.

TITLE II—TRIBAL JURISDICTION AND CRIMINAL OFFENSES

Sec. 201. Tribal jurisdiction over crimes of domestic violence.

Sec. 202. Tribal protection orders.

Sec. 203. Amendments to the Federal assault statute.

Sec. 204. Effective dates; pilot project.

Sec. 205. Other amendments.

6 **TITLE I—GRANT PROGRAMS**

7 **SEC. 101. GRANTS TO INDIAN TRIBAL GOVERNMENTS.**

8 Section 2015(a) of title I of the Omnibus Crime Con-  
9 trol and Safe Streets Act of 1968 (42 U.S.C. 3796gg-  
10 10(a)) is amended—

11 (1) in paragraph (2), by inserting “sex traf-  
12 ficking,” after “sexual assault,”;

13 (2) in paragraph (4), by inserting “sex traf-  
14 ficking,” after “sexual assault,”;

15 (3) in paragraph (5), by inserting “sexual as-  
16 sault, sex trafficking,” after “dating violence,”;

17 (4) in paragraph (7)—

1 (A) by inserting “sex trafficking,” after  
2 “sexual assault,” each place it appears; and

3 (B) by striking “and” at the end;

4 (5) in paragraph (8)—

5 (A) by inserting “sex trafficking,” after  
6 “stalking,”; and

7 (B) by striking the period at the end and  
8 inserting a semicolon; and

9 (6) by adding at the end the following:

10 “(9) provide services to address the needs of  
11 youth who are victims of domestic violence, dating  
12 violence, sexual assault, sex trafficking, or stalking  
13 and the needs of children exposed to domestic vio-  
14 lence, dating violence, sexual assault, severe forms of  
15 trafficking in persons, or stalking, including support  
16 for the nonabusing parent or the caretaker of the  
17 child; and

18 “(10) develop and promote legislation and poli-  
19 cies that enhance best practices for responding to  
20 violent crimes against Indian women, including the  
21 crimes of domestic violence, dating violence, sexual  
22 assault, sex trafficking, and stalking.”.

1 **SEC. 102. TRIBAL COALITION GRANTS.**

2 Section 2001(d) of title I of the Omnibus Crime Con-  
3 trol and Safe Streets Act of 1968 (42 U.S.C. 3796gg(d))  
4 is amended—

5 (1) in paragraph (1)—

6 (A) in subparagraph (B), by striking  
7 “and” at the end;

8 (B) in subparagraph (C), by striking the  
9 period at the end and inserting “; and”; and

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

11 “(D) developing and promoting legislation  
12 and policies that enhance best practices for re-  
13 sponding to violent crimes against Indian  
14 women, including the crimes of domestic vio-  
15 lence, dating violence, sexual assault, and stalk-  
16 ing.”;

17 (2) in paragraph (2)(B), by striking “individ-  
18 uals or”; and

19 (3) by adding at the end the following:

20 “(4) TECHNICAL ASSISTANCE.—The Attorney  
21 General may award grants, cooperative agreements,  
22 or contracts for the purpose of providing technical  
23 assistance and training to tribal coalitions and tribal  
24 organizations whose primary purpose is serving the  
25 tribal coalitions.”.

1 **SEC. 103. CONSULTATION.**

2 Section 903 of the Violence Against Women and De-  
3 partment of Justice Reauthorization Act of 2005 (42  
4 U.S.C. 14045d) is amended—

5 (1) in subsection (a)—

6 (A) by striking “and the Violence Against  
7 Women Act of 2000” and inserting “, the Vio-  
8 lence Against Women Act of 2000”; and

9 (B) by inserting “, and the Violence  
10 Against Native American Women Act of 2011”  
11 before the period at the end;

12 (2) in subsection (b), by striking “the Secretary  
13 of the Department of Health and Human Services  
14 and” and inserting “the Secretary of Health and  
15 Human Services, the Secretary of the Interior, and”;  
16 and

17 (3) by adding at the end the following:

18 “(c) NOTICE.—Not later than 120 days before the  
19 date of a consultation under subsection (a), the Attorney  
20 General shall notify tribal leaders of the date, time, and  
21 location of the consultation.”.

22 **SEC. 104. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST**  
23 **WOMEN.**

24 Section 904(a) of the Violence Against Women and  
25 Department of Justice Reauthorization Act of 2005 (42  
26 U.S.C. § 3796gg–10 note) is amended—

1 (1) in paragraph (1)—

2 (A) by striking “The National” and insert-  
3 ing “Not later than 2 years after the date of  
4 enactment of the Violence Against Native  
5 American Women Act of 2011, the National”;  
6 and

7 (B) by inserting “and in Native villages”  
8 before the period at the end;

9 (2) in paragraph (2)(A)—

10 (A) in clause (iv), by striking “and” at the  
11 end;

12 (B) in clause (v), by striking the period at  
13 the end and inserting “; and”; and

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

15 “(vi) sex trafficking.”;

16 (3) in paragraph (4), by striking “this Act” and  
17 inserting “the Violence Against Native American  
18 Women Act of 2011”; and

19 (4) in paragraph (5), by striking “this section  
20 \$1,000,000 for each of fiscal years 2007 and 2008”  
21 and inserting “this subsection \$1,000,000 for each  
22 of fiscal years 2012 and 2013”.

23 **SEC. 105. DEFINITIONS.**

24 Section 40002(a) of the Violence Against Women Act  
25 of 1994 (42 U.S.C. 13925(a)) is amended—

1 (1) by redesignating paragraphs (18) through  
2 (37) as paragraphs (19) through (38), respectively;

3 (2) by inserting after paragraph (17) the fol-  
4 lowing:

5 “(18) NATIVE VILLAGE.—The term ‘Native vil-  
6 lage’ has the meaning given that term in section 3  
7 of the Alaska Native Claims Settlement Act (43  
8 U.S.C. 1602).”; and

9 (3) in paragraph (22), as redesignated by para-  
10 graph (1) of this section—

11 (A) in subparagraph (A), by striking “or”  
12 at the end;

13 (B) in subparagraph (B), by striking the  
14 period at the end and inserting “; or”; and

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

16 “(C) an area or community under the ju-  
17 risdiction of a federally recognized Indian  
18 tribe.”.

## 19 **TITLE II—TRIBAL JURISDICTION** 20 **AND CRIMINAL OFFENSES**

### 21 **SEC. 201. TRIBAL JURISDICTION OVER CRIMES OF DOMES-** 22 **TIC VIOLENCE.**

23 Title II of Public Law 90–284 (25 U.S.C. 1301 et  
24 seq.) (commonly known as the “Indian Civil Rights Act  
25 of 1968”) is amended by adding at the end the following:

1 **“SEC. 204. TRIBAL JURISDICTION OVER CRIMES OF DOMES-**  
2 **TIC VIOLENCE.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) DATING VIOLENCE.—The term ‘dating vio-

5 lence’ means violence committed by a person who is

6 or has been in a social relationship of a romantic or

7 intimate nature with the victim, as determined by

8 the length of the relationship, the type of relation-

9 ship, and the frequency of interaction between the

10 persons involved in the relationship.

11 “(2) DOMESTIC VIOLENCE.—The term ‘domes-

12 tic violence’ means violence committed by a current

13 or former spouse of the victim, by a person with

14 whom the victim shares a child in common, by a per-

15 son who is cohabitating with or has cohabitated with

16 the victim as a spouse, or by a person similarly situ-

17 ated to a spouse of the victim under the domestic or

18 family violence laws of the Indian tribe that has ju-

19 risdiction over the Indian country where the violence

20 occurs.

21 “(3) INDIAN COUNTRY.—The term ‘Indian

22 country’ has the meaning given the term in section

23 1151 of title 18, United States Code.

24 “(4) PARTICIPATING TRIBE.—The term ‘partici-

25 pating tribe’ means an Indian tribe that elects to ex-

1        exercise special domestic violence criminal jurisdiction  
2        over the Indian country of that Indian tribe.

3            “(5) PROTECTION ORDER.—The term ‘protec-  
4        tion order’ means any injunction, restraining order,  
5        or other order issued by a civil or criminal court for  
6        the purpose of preventing violent or threatening acts  
7        or harassment against, sexual violence against, con-  
8        tact or communication with, or physical proximity  
9        to, another person, including any temporary or final  
10       order issued by a civil or criminal court, whether ob-  
11       tained by filing an independent action or as a  
12       pendente lite order in another proceeding, so long as  
13       the civil or criminal order was issued in response to  
14       a complaint, petition, or motion filed by or on behalf  
15       of a person seeking protection.

16            “(6) SPECIAL DOMESTIC VIOLENCE CRIMINAL  
17        JURISDICTION.—The term ‘special domestic violence  
18        criminal jurisdiction’ means the criminal jurisdiction  
19        that a participating tribe may exercise under this  
20        section.

21            “(7) SPOUSE OR INTIMATE PARTNER.—The  
22        term ‘spouse or intimate partner’ has the meaning  
23        given the term in section 2266 of title 18, United  
24        States Code.

25            “(b) NATURE OF THE CRIMINAL JURISDICTION.—

1           “(1) IN GENERAL.—In addition to any power of  
2 self-government recognized and affirmed by sections  
3 201 and 203, the power of self-government of a par-  
4 ticipating tribe to exercise special domestic violence  
5 criminal jurisdiction over all persons subject to the  
6 jurisdiction of the participating tribe is recognized  
7 and affirmed, subject to the limitations of this sec-  
8 tion.

9           “(2) CONCURRENT JURISDICTION.—The exer-  
10 cise of special domestic violence criminal jurisdiction  
11 by a participating tribe shall be concurrent with the  
12 jurisdiction of the United States of an offense de-  
13 scribed in subsection (c).

14           “(3) APPLICABILITY.—Nothing in this sec-  
15 tion—

16                   “(A) creates or eliminates any Federal or  
17 State criminal jurisdiction over Indian country;  
18 or

19                   “(B) affects the authority of the United  
20 States or any State government that has been  
21 delegated authority by the United States to in-  
22 vestigate and prosecute a criminal violation in  
23 Indian country.

1       “(c) CRIMINAL CONDUCT.—A participating tribe may  
2 exercise special domestic violence criminal jurisdiction over  
3 a defendant for the following categories of offenses:

4           “(1) DOMESTIC VIOLENCE AND DATING VIO-  
5 LENCE.—An act of domestic violence or dating vio-  
6 lence that occurs in the Indian country of the par-  
7 ticipating tribe.

8           “(2) VIOLATIONS OF PROTECTION ORDERS.—  
9 An act that—

10           “(A) occurs in the Indian country of the  
11 participating tribe; and

12           “(B) violates the relevant portion of a pro-  
13 tection order that—

14           “(i) was issued against the defendant;

15           “(ii) is enforceable by the partici-  
16 pating tribe; and

17           “(iii) is consistent with section  
18 2265(b) of title 18, United States Code.

19       “(d) DISMISSAL OF CERTAIN CASES.—

20           “(1) DEFINITION OF VICTIM.—In this sub-  
21 section, the term ‘victim’ means a person specifically  
22 protected by a protection order that the defendant  
23 allegedly violated.

24           “(2) NON-INDIAN VICTIMS AND DEFEND-  
25 ANTS.—In a criminal proceeding in which a partici-

1 participating tribe exercises special domestic violence crimi-  
2 nal jurisdiction, the case shall be dismissed if—

3 “(A) the defendant files a pretrial motion  
4 to dismiss on the grounds that the alleged of-  
5 fense did not involve an Indian; and

6 “(B) the participating tribe fails to prove  
7 that the defendant or an alleged victim is an  
8 Indian.

9 “(3) TIES TO INDIAN TRIBE.—In a criminal  
10 proceeding in which a participating tribe exercises  
11 special domestic violence criminal jurisdiction, the  
12 case shall be dismissed if—

13 “(A) the defendant files a pretrial motion  
14 to dismiss on the grounds that the defendant  
15 and the alleged victim lack sufficient ties to the  
16 Indian tribe; and

17 “(B) the prosecuting tribe fails to prove  
18 that the defendant or an alleged victim—

19 “(i) resides in the Indian country of  
20 the participating tribe;

21 “(ii) is employed in the Indian coun-  
22 try of the participating tribe; or

23 “(iii) is a spouse or intimate partner  
24 of a member of the participating tribe.

1           “(4) WAIVER.—A knowing and voluntary fail-  
2           ure of a defendant to file a pretrial motion described  
3           in paragraph (2) or (3) shall be considered a waiver  
4           of the right to seek a dismissal under this sub-  
5           section.

6           “(e) RIGHTS OF DEFENDANTS.—In a criminal pro-  
7           ceeding in which a participating tribe exercises special do-  
8           mestic violence criminal jurisdiction, the participating  
9           tribe shall provide to the defendant—

10           “(1) all applicable rights under this Act;

11           “(2) if a term of imprisonment of any length is  
12           imposed, all rights described in section 202(c); and

13           “(3) all other rights required under the Con-  
14           stitution of the United States to allow the partici-  
15           pating tribe to exercise special domestic violence  
16           criminal jurisdiction.

17           “(f) PETITIONS TO STAY DETENTION.—

18           “(1) IN GENERAL.—A person who is detained  
19           by a participating tribe pending trial under an exer-  
20           cise of special domestic violence criminal jurisdiction  
21           and has filed a petition for a writ of habeas corpus  
22           in a court of the United States under section 203  
23           may petition that court to stay further detention of  
24           that person by the participating tribe.

1           “(2) GRANT OF STAY.—A court shall grant a  
2 stay described in paragraph (1) if the court finds  
3 that—

4                   “(A) there is a substantial likelihood that  
5 the habeas corpus petition will be granted; and

6                   “(B) after giving each alleged victim in the  
7 matter an opportunity to be heard, by clear and  
8 convincing evidence and under any conditions  
9 imposed by the court, the petitioner is not likely  
10 to flee or pose a danger to any person or the  
11 community if released.

12           “(g) GRANTS TO TRIBAL GOVERNMENTS.—The At-  
13 torney General may award grants to the governments of  
14 Indian tribes (or to authorized designees of those govern-  
15 ments)—

16                   “(1) to strengthen tribal criminal justice sys-  
17 tems to assist Indian tribes in exercising special do-  
18 mestic violence criminal jurisdiction, including—

19                           “(A) law enforcement (including the capac-  
20 ity to enter information into and obtain infor-  
21 mation from national crime information data-  
22 bases);

23                           “(B) prosecution;

24                           “(C) trial and appellate courts;

25                           “(D) probation systems;

1 “(E) detention and correctional facilities;

2 “(F) alternative rehabilitation centers;

3 “(G) culturally appropriate services and  
4 assistance for victims and their families; and

5 “(H) criminal codes and rules of criminal  
6 procedure, appellate procedure, and evidence;

7 “(2) to provide indigent criminal defendants  
8 with the effective assistance of licensed defense  
9 counsel, at no cost to the defendant, in criminal pro-  
10 ceedings in which a participating tribe prosecutes a  
11 crime of domestic violence or dating violence or a  
12 criminal violation of a protection order;

13 “(3) to ensure that, in criminal proceedings in  
14 which a participating tribe exercises special domestic  
15 violence criminal jurisdiction, jurors are summoned,  
16 selected, and instructed in a manner consistent with  
17 all applicable requirements; and

18 “(4) to accord victims of domestic violence, dat-  
19 ing violence, and violations of protection orders  
20 rights that are similar to the rights of a crime victim  
21 described in section 3771(a) of title 18, United  
22 States Code, and consistent with tribal law and cus-  
23 tom.

24 “(h) SUPPLEMENT, NOT SUPPLANT.—Amounts  
25 made available under this section shall supplement and

1 not supplant any other Federal, State, tribal, or local gov-  
2 ernment amounts made available to carry out activities de-  
3 scribed in this section.

4 “(i) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to carry out subsection  
6 (g) and to provide training, technical assistance, data col-  
7 lection, and evaluation of the criminal justice systems of  
8 participating tribes such sums as are necessary.”.

9 **SEC. 202. TRIBAL PROTECTION ORDERS.**

10 Section 2265 of title 18, United States Code, is  
11 amended by striking subsection (e) and inserting the fol-  
12 lowing:

13 “(e) TRIBAL COURT JURISDICTION.—For purposes  
14 of this section, a court of an Indian tribe shall have full  
15 civil jurisdiction to issue and enforce protection orders in-  
16 volving any person, including the authority to enforce any  
17 orders through civil contempt proceedings, to exclude vio-  
18 lators from Indian land, and to take other appropriate  
19 measures, in matters arising anywhere in the Indian coun-  
20 try of the Indian tribe (as defined in section 1151) or oth-  
21 erwise within the authority of the Indian tribe.”.

22 **SEC. 203. AMENDMENTS TO THE FEDERAL ASSAULT STAT-**  
23 **UTE.**

24 (a) ASSAULTS BY STRIKING, BEATING, OR WOUND-  
25 ING.—Section 113(a)(4) of title 18, United States Code,

1 is amended by striking “six months” and inserting “1  
2 year”.

3 (b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY  
4 INJURY.—Section 113(a)(7) of title 18, United States  
5 Code, is amended by striking “substantial bodily injury  
6 to an individual who has not attained the age of 16 years”  
7 and inserting “substantial bodily injury to a spouse or in-  
8 timate partner, a dating partner, or an individual who has  
9 not attained the age of 16 years”.

10 (c) ASSAULTS BY STRANGLING OR SUFFOCATING.—  
11 Section 113(a) of title 18, United States Code, is amended  
12 by adding at the end the following:

13 “(8) Assault of a spouse, intimate partner, or  
14 dating partner by strangling, suffocating, or at-  
15 tempting to strangle or suffocate, by a fine under  
16 this title , imprisonment for not more than 10 years,  
17 or both.”.

18 (d) DEFINITIONS.—Section 113(b) of title 18, United  
19 States Code, is amended—

20 (1) by striking “(b) As used in this sub-  
21 section—” and inserting the following:

22 “(b) DEFINITIONS.—In this section—”;

23 (2) in paragraph (1)(B), by striking “and” at  
24 the end;

1           (3) in paragraph (2), by striking the period at  
2 the end and inserting a semicolon; and

3           (4) by adding at the end the following:

4           “(3) the terms ‘dating partner’ and ‘spouse or  
5 intimate partner’ have the meanings given those  
6 terms in section 2266;

7           “(4) the term ‘strangling’ means intentionally,  
8 knowingly, or recklessly impeding the normal breath-  
9 ing or circulation of the blood of a person by apply-  
10 ing pressure to the throat or neck, regardless of  
11 whether that conduct results in any visible injury or  
12 whether there is any intent to kill or protractedly in-  
13 jure the victim; and

14           “(5) the term ‘suffocating’ means intentionally,  
15 knowingly, or recklessly impeding the normal breath-  
16 ing of a person by covering the mouth of the person,  
17 the nose of the person, or both, regardless of wheth-  
18 er that conduct results in any visible injury or  
19 whether there is any intent to kill or protractedly in-  
20 jure the victim.”.

21           (e) INDIAN MAJOR CRIMES.—Section 1153(a) of title  
22 18, United States Code, is amended by striking “assault  
23 with intent to commit murder, assault with a dangerous  
24 weapon, assault resulting in serious bodily injury (as de-

1 fined in section 1365 of this title)” and inserting “a felony  
2 assault under section 113”.

3 **SEC. 204. EFFECTIVE DATES; PILOT PROJECT.**

4 (a) GENERAL EFFECTIVE DATE.—Except as pro-  
5 vided in subsection (b), the amendments made by this title  
6 shall take effect on the date of enactment of this Act.

7 (b) EFFECTIVE DATE FOR SPECIAL DOMESTIC-VIO-  
8 LENCE CRIMINAL JURISDICTION.—

9 (1) IN GENERAL.—Except as provided in para-  
10 graph (2), subsections (b) through (e) of section 204  
11 of Public Law 90–284 (as added by section 201)  
12 shall take effect on the date that is 2 years after the  
13 date of enactment of this Act.

14 (2) PILOT PROJECT.—

15 (A) IN GENERAL.—At any time during the  
16 2-year period beginning on the date of enact-  
17 ment of this Act, an Indian tribe may ask the  
18 Attorney General to designate the tribe as a  
19 participating tribe under section 204(a) of Pub-  
20 lic Law 90–284 on an accelerated basis.

21 (B) PROCEDURE.—The Attorney General  
22 may grant a request under subparagraph (A)  
23 after coordinating with the Secretary of the In-  
24 terior, consulting with affected Indian tribes,  
25 and concluding that the criminal justice system

1 of the requesting tribe has adequate safeguards  
2 in place to protect defendants' rights, consistent  
3 with section 204 of Public Law 90–284.

4 (C) EFFECTIVE DATES FOR PILOT  
5 PROJECTS.—An Indian tribe designated as a  
6 participating tribe under this paragraph may  
7 commence exercising special domestic violence  
8 criminal jurisdiction pursuant to subsections (b)  
9 through (e) of section 204 of Public Law 90–  
10 284 on a date established by the Attorney Gen-  
11 eral, after consultation with that Indian tribe,  
12 but in no event later than the date that is 2  
13 years after the date of enactment of this Act.

14 **SEC. 205. OTHER AMENDMENTS.**

15 (a) ASSAULTS.—Section 113(a) of title 18, United  
16 States Code, is amended—

17 (1) by striking paragraph (1) and inserting the  
18 following:

19 “(1) Assault with intent to commit murder or  
20 a felony under chapter 109A, by a fine under this  
21 title, imprisonment for not more than 20 years, or  
22 both.”;

23 (2) in paragraph (3) by striking “and without  
24 just cause or excuse,”; and

1           (3) in paragraph (7), by striking “fine” and in-  
2           serting “a fine”.

3           (b) REPEAT OFFENDERS.—Section 2265A(b)(1)(B)  
4 of title 18, United States Code, is amended by inserting  
5 “or tribal” after “State”.