

114TH CONGRESS
1ST SESSION

S. 1704

To amend the Indian Tribal Justice Act to secure urgent resources vital to Indian victims of crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 7, 2015

Mr. BARRASSO (for himself, Ms. MURKOWSKI, Mr. TESTER, Mr. DAINES, Mr. MORAN, Mr. SCHATZ, Mr. UDALL, Ms. HEITKAMP, and Mr. HOEVEN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Indian Tribal Justice Act to secure urgent resources vital to Indian victims of crime, 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 “Securing Urgent Re-
5 sources Vital to Indian Victim Empowerment Act” or the
6 “SURVIVE Act”.

7 **SEC. 2. TRIBAL VICTIMS OF CRIME.**

8 (a) DEFINITIONS.—Section 3 of the Indian Tribal
9 Justice Act (25 U.S.C. 3602) is amended—

1 (1) in paragraph (3), by striking “The term”
 2 and inserting “Except as provided in section 105,
 3 the term”;

4 (2) in paragraph (5), by inserting “and Victim
 5 Services” after “Support”;

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

7 “(9) VICTIM OF CRIME.—The term ‘victim of
 8 crime’ includes any individual directly or proximately
 9 harmed due to the commission of a crime.”;

10 (4) by redesignating paragraphs (3) through
 11 (9) as paragraphs (5) through (11), respectively;
 12 and

13 (5) by inserting after paragraph (2) the fol-
 14 lowing:

15 “(3) INDIAN.—The term ‘Indian’ means a
 16 member of an Indian tribe.

17 “(4) INDIAN COUNTRY.—The term ‘Indian
 18 country’ has the meaning given the term in section
 19 1151 of title 18, United States Code.”.

20 (b) OFFICE OF TRIBAL JUSTICE SUPPORT AND VIC-
 21 TIMS SERVICES.—Section 101 of the Indian Tribal Justice
 22 Act (25 U.S.C. 3611) is amended—

23 (1) in the section heading, by inserting “**AND**
 24 **VICTIM SERVICES**” after “**SUPPORT**”;

25 (2) in subsection (a)—

1 (A) in the first sentence—

2 (i) by inserting “and Victim Services”
3 after “Support”; and

4 (ii) by striking “There is” and insert-
5 ing the following:

6 “(1) IN GENERAL.—There is”;

7 (B) in paragraph (1) (as designated by
8 subparagraph (A)(ii)), in the second sentence,
9 by striking “The purpose” and inserting the
10 following:

11 “(2) PURPOSES.—The purposes”; and

12 (C) in paragraph (2) (as designated by
13 subparagraph (B)), by inserting “and to pro-
14 vide services to victims of crime” after “Courts
15 of Indian Offenses”;

16 (3) in subsection (b), by inserting “and Victim
17 Services” after “Support” each place it appears; and

18 (4) in subsection (c), by adding at the end the
19 following:

20 “(7) Make grants for victims of crime in ac-
21 cordance with section 105.”.

22 (c) GRANT PROGRAM.—The Indian Tribal Justice
23 Act is amended by inserting after section 104 (25 U.S.C.
24 3614) the following:

1 **“SEC. 105. GRANT PROGRAM FOR TRIBAL CRIME VICTIM**
2 **SERVICES.**

3 “(a) DEFINITION OF INDIAN TRIBE.—In this section,
4 the term ‘Indian tribe’ has the meaning given the term
5 in section 4 of the Indian Self-Determination and Edu-
6 cation Assistance Act (25 U.S.C. 450b).

7 “(b) DUTIES.—The Office shall—

8 “(1) administer the grant program described in
9 subsection (c); and

10 “(2) provide planning, research, training, and
11 technical assistance to the programs to be carried
12 out using a grant provided under subsection (c).

13 “(c) GRANT PROGRAM.—

14 “(1) IN GENERAL.—The Office shall make
15 grants to Indian tribes for the purposes of fund-
16 ing—

17 “(A) a crime victim compensation program
18 that provides compensation to victims of crime
19 for the services described in subparagraphs (A)
20 through (C) of section 1403(b)(1) of the Vic-
21 tims of Crime Act of 1984 (42 U.S.C.
22 10602(b)(1));

23 “(B) services to victims of crime, which
24 may be provided in traditional form or through
25 electronic, digital, or other technological for-
26 mats, including—

1 “(i) services provided through sub-
2 grants to victim services agencies or de-
3 partments of tribal governments or non-
4 profit organizations;

5 “(ii) domestic violence shelters, rape
6 crisis centers, and child advocacy centers
7 providing services to victims of crime in In-
8 dian country or in Alaska Native villages;

9 “(iii) relocation and transitional hous-
10 ing for victims of crime and family mem-
11 bers of victims of crime;

12 “(iv) medical care, treatment, and re-
13 lated evaluations arising from the victim-
14 ization, including—

15 “(I) emergency medical care and
16 evaluation, nonemergency medical
17 care and evaluation, psychological and
18 psychiatric care and evaluation, and
19 other forms of medical assistance,
20 treatment, or therapy, regardless of
21 the setting in which the services are
22 delivered;

23 “(II) mental health and crisis
24 counseling, evaluation, and assistance,
25 including outpatient therapy, coun-

1 seling services, referral to substance
2 abuse treatment, and other forms of
3 specialized treatment; and

4 “(III) prophylactic treatment to
5 prevent a victim of crime from con-
6 tracting HIV/AIDS or any other sexu-
7 ally transmitted disease or infection;

8 “(v) medical equipment, such as wheel
9 chairs, prosthetics, crutches, canes, hearing
10 aids, and eyeglasses, the need for which
11 arises directly from the victimization;

12 “(vi) legal services, legal assistance
13 services, and legal clinics (including serv-
14 ices provided by pro bono legal clinics and
15 practitioners), the need for which arises di-
16 rectly from the victimization;

17 “(vii) ambulance and other medical
18 transport and emergency response services;

19 “(viii) the training and certification of
20 service animals and therapy animals; and

21 “(ix) forensic interviews, medical eval-
22 uations, and forensic medical evidence col-
23 lection examinations for victims of crime,
24 the need for which arises directly from the
25 victimization;

1 “(C) the development, establishment, and
2 operation of programs designed to improve the
3 handling of, including the investigation and
4 prosecution of, violent crime cases, particularly
5 cases of child abuse, domestic violence, sexual
6 assault, stalking, human trafficking, and iden-
7 tity theft, in a manner that limits additional
8 trauma to the victims;

9 “(D) housing for tribal law enforcement of-
10 ficers and other personnel, including victim ad-
11 vocates, whose work is dedicated to providing
12 services to victims of crime;

13 “(E) the repair, renovation, or rehabilita-
14 tion of existing facilities used for providing
15 services to victims of crime, including improve-
16 ments necessary to comply with the Americans
17 with Disabilities Act of 1990 (42 U.S.C. 12101
18 et seq.);

19 “(F) communication devices, as necessary
20 to ensure the safety and security of victims of
21 crime;

22 “(G) the design, development, purchase,
23 upgrade, improvement, implementation, or sup-
24 port (including training in the use) of techno-
25 logical equipment, hardware, technology plat-

1 forms, software, or applications used in pro-
2 grams providing or managing services to vic-
3 tims of crime;

4 “(H) the development or implementation of
5 training, technical assistance, or professional
6 development that improves or enhances the
7 quality of services to victims of crime;

8 “(I) transportation for victims of crime;

9 “(J) grant writing activities for grants de-
10 scribed under this subsection;

11 “(K) administration of the program and
12 services described in this paragraph;

13 “(L) activities that impact the delivery and
14 quality of services and justice to victims of
15 crime, including strategies to increase the ca-
16 pacity of Indian tribes to provide services to vic-
17 tims of crime; and

18 “(M) any other services permitted under a
19 regulation lawfully promulgated by the Attorney
20 General or Secretary in accordance with this
21 Act.

22 “(2) ELIGIBILITY.—An Indian tribe seeking a
23 grant under this subsection shall submit to the Of-
24 fice a written victim assistance proposal that in-
25 cludes, at a minimum—

1 “(A) a description of the need for services
2 and the mission and goals of the activity to be
3 carried out using the grant;

4 “(B) a description of how amounts re-
5 ceived under the grant would be used;

6 “(C) the proposed annual budget for the
7 activities for each fiscal year in which amounts
8 received under the grant may be used;

9 “(D) any qualifications, certifications, or
10 licenses that may be required for individuals in-
11 volved in administering the program;

12 “(E) a certification by the Indian tribe
13 that—

14 “(i) victims of crime are entitled to
15 the rights and protections described in sec-
16 tion 3771(a) of title 18, United States
17 Code, or substantially similar rights and
18 protections under tribal law; and

19 “(ii) individuals who report crimes are
20 protected by law from retribution and re-
21 taliation;

22 “(F) a description of any plans or agree-
23 ments to coordinate crime victim services
24 among Federal, State, local, and tribal govern-
25 ments; and

1 “(G) any additional information required
2 by the Secretary through written guidance,
3 after consultation with Indian tribes.

4 “(3) NO MATCHING REQUIREMENT.—A recipi-
5 ent or subrecipient of a grant under this subsection
6 shall not be required to make a matching contribu-
7 tion for Federal dollars received.

8 “(4) ANNUAL REPORT.—A recipient or sub-
9 recipient of a grant under this subsection shall, on
10 an annual basis, submit to the Office a report de-
11 scribing the purpose for which the grant was used,
12 which shall include, at a minimum—

13 “(A) the purpose for which grant funds
14 were obligated and the amount of funds obli-
15 gated by the recipient or subrecipient for each
16 purpose, including, on a quarterly basis—

17 “(i) the amount of grant funds used
18 by the recipient or subrecipient for admin-
19 istrative costs;

20 “(ii) the amount of grant funds used
21 by the recipient or subrecipient for direct
22 services; and

23 “(iii) the amount of grant funds used
24 by the recipient or subrecipient for capital
25 investments;

1 “(B) the number of victims served as a re-
2 sult of the grant;

3 “(C) a description of the types of victims
4 served under a program carried out using the
5 grant, which, for each victim, shall include, at
6 a minimum—

7 “(i) the alleged crime and injury in-
8 volved;

9 “(ii) whether the victim is an Indian;
10 and

11 “(iii) other demographic information,
12 including the age, sex, and tribal affiliation
13 of the victim, if applicable;

14 “(D) the nature and location of the alleged
15 crime involved in each incident, including—

16 “(i) whether the crime was committed
17 in Indian country;

18 “(ii) whether the alleged perpetrator
19 is an Indian; and

20 “(iii) the disposition of the incident,
21 including any resulting charge, verdict,
22 fine, fee, penalty, sentence, dismissal, or
23 decision to settle or otherwise not pursue
24 prosecution; and

1 “(E) all jurisdictions involved in any dis-
2 position.

3 “(d) OVERSIGHT AND ENFORCEMENT AUTHORITY.—

4 “(1) AUTHORITY.—The Office shall—

5 “(A) regularly monitor and review grants
6 awarded under subsection (c); and

7 “(B) conduct investigations and audits—

8 “(i) to ensure compliance with all ap-
9 plicable Federal law; and

10 “(ii) to prevent duplication and redun-
11 dancy in the awarding of grants under
12 subsection (c).

13 “(2) PERFORMANCE MEASURES AND ENFORCE-
14 ABLE AGREEMENTS.—The Office shall ensure that
15 all grants awarded under subsection (c), are subject
16 to performance measures and enforceable agree-
17 ments that allow for thorough program oversight by
18 the Secretary.

19 “(3) COMPLIANCE REPORTS TO CONGRESS.—
20 For fiscal year 2017 and each fiscal year thereafter,
21 the Secretary shall submit to the Committee on In-
22 dian Affairs of the Senate and the Subcommittee on
23 Indian, Insular and Alaska Native Affairs of the
24 House of Representatives an annual compliance re-
25 port on all grants awarded under subsection (c).

1 “(e) DEADLINE FOR AWARDING GRANTS.—Not later
2 than 180 days after the date on which funding is made
3 available to carry out this section, the Office shall award
4 all funds available for grants under this section to eligible
5 recipients.

6 “(f) AVAILABILITY OF GRANT FUNDS.—Any amount
7 awarded under this section that remains unobligated at
8 the end of the fiscal year in which the grant is made may
9 be expended for the purpose for which the grant was made
10 at any time during the 5 succeeding fiscal years, at the
11 end of which period, any unobligated sums shall remain
12 available to the Office for award under this section in the
13 following fiscal year.

14 “(g) EFFECT.—Nothing in this section—

15 “(1) precludes an Indian tribe from contracting
16 with another Indian tribe or tribal organization for
17 the administration of a program funded under this
18 subsection; or

19 “(2) prevents multiple Indian tribes or tribal
20 organizations from forming a consortium for any of
21 the purposes described in this subsection.

22 “(h) FUNDING.—

23 “(1) IN GENERAL.—The grant program estab-
24 lished under this section shall be carried out using
25 funds made available under section 1402(d)(1) of

1 the Victims of Crime Act of 1984 (42 U.S.C.
2 10601(d)(1)).

3 “(2) ADMINISTRATIVE EXPENSES.—With re-
4 spect to the grant program under this section only,
5 for each fiscal year in which a grant is made or
6 grant funds may be obligated, an amount not to ex-
7 ceed 4 percent of the funds made available to the
8 Office under this section may be used by the Office
9 for administrative expenses, the management and
10 administration of grants made under this section,
11 and training and technical assistance.

12 “(i) TERM.—This section shall be effective for—

13 “(1) the first fiscal year beginning after the
14 date of enactment of this section; and

15 “(2) the 9 fiscal years following such year.”

16 (d) FUNDING FOR GRANTS FOR TRIBAL VICTIMS OF
17 CRIME.—Section 1402(d) of the Victims of Crime Act of
18 1984 (42 U.S.C. 10601(d)) is amended—

19 (1) by inserting before paragraph (2) the fol-
20 lowing:

21 “(1) Beginning on October 1, 2015, and each
22 fiscal year thereafter for a period of 10 fiscal years,
23 5 percent of the total amount in the Fund available
24 for obligation during a fiscal year shall be made
25 available to the Secretary of the Interior to make

1 grants under section 105 of the Indian Tribal Jus-
2 tice Act.”; and

3 (2) in paragraph (3)(A), in the matter pre-
4 ceding clause (i), by striking “paragraph (2)” and
5 inserting “paragraphs (1) and (2)”.

6 **SEC. 3. REGULATIONS REGARDING INDIAN TRIBES.**

7 (a) EXISTING REGULATIONS.—Any regulation, rule,
8 or guidance promulgated by the Attorney General or the
9 Secretary of the Interior before the date of enactment of
10 this Act shall have no force or effect with respect to sec-
11 tion 105 of the Indian Tribal Justice Act, as added by
12 section 2.

13 (b) NEGOTIATED RULEMAKING.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of enactment of this Act, the Secretary of
16 the Interior, in consultation with Indian tribes (as
17 defined in section 4 of the Indian Self-Determination
18 and Education Assistance Act (25 U.S.C. 450b))
19 and through notice and comment rulemaking, shall
20 promulgate final regulations carrying out section
21 105 of the Indian Tribal Justice Act, as added by
22 section 2.

23 (2) REQUIREMENTS.—The Secretary of the In-
24 terior shall ensure that—

1 (A) not fewer than 2 Indian tribes from
2 each Bureau of Indian Affairs region partici-
3 pate in the consultation; and

4 (B) small, medium, and large land-based
5 Indian tribes are represented.

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