114TH CONGRESS 1ST SESSION

H. R. 1168

AN ACT

- To amend the Indian Child Protection and Family Violence Prevention Act to require background checks before foster care placements are ordered in tribal court proceedings, 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.

2	This Act may be cited as the "Native American Chil-					
3	dren's Safety Act''.					
4	SEC. 2. CRIMINAL RECORDS CHECKS.					
5	Section 408 of the Indian Child Protection and Fam-					
6	ily Violence Prevention Act (25 U.S.C. 3207) is amended					
7	by adding at the end the following:					
8	"(d) By Tribal Social Services Agency for					
9	FOSTER CARE PLACEMENTS IN TRIBAL COURT PRO-					
10	CEEDINGS.—					
11	"(1) Definitions.—In this subsection:					
12	"(A) COVERED INDIVIDUAL.—The term					
13	'covered individual' includes—					
14	"(i) any individual 18 years of age or					
15	older; and					
16	"(ii) any individual who the tribal so-					
17	cial services agency determines is subject					
18	to a criminal records check under para-					
19	graph $(2)(A)$.					
20	"(B) FOSTER CARE PLACEMENT.—The					
21	term 'foster care placement' means any action					
22	removing an Indian child from a parent or In-					
23	dian custodian for temporary placement in a					
24	foster home or institution or the home of a					
25	guardian or conservator if—					

1	"(i) the parent or Indian custodian
2	cannot have the child returned on demand;
3	and
4	"(ii)(I) parental rights have not been
5	terminated; or
6	"(II) parental rights have been termi-
7	nated but the child has not been perma-
8	nently placed.
9	"(C) Indian custodian.—The term 'In-
10	dian custodian' means any Indian—
11	"(i) who has legal custody of an In-
12	dian child under tribal law or custom or
13	under State law; or
14	"(ii) to whom temporary physical
15	care, custody, and control has been trans-
16	ferred by the parent of the child.
17	"(D) PARENT.—The term 'parent'
18	means—
19	"(i) any biological parent of an Indian
20	child; or
21	"(ii) any Indian who has lawfully
22	adopted an Indian child, including adop-
23	tions under tribal law or custom.
24	"(E) Tribal court.—The term 'tribal
25	court' means a court—

1	"(i) with jurisdiction over foster care
2	placements; and
3	"(ii) that is—
4	"(I) a Court of Indian Offenses;
5	"(II) a court established and op-
6	erated under the code or custom of an
7	Indian tribe; or
8	"(III) any other administrative
9	body of an Indian tribe that is vested
10	with authority over foster care place-
11	ments.
12	"(F) Tribal social services agency.—
13	The term 'tribal social services agency' means
14	the agency of an Indian tribe that has the pri-
15	mary responsibility for carrying out foster care
16	licensing or approval (as of the date on which
17	the proceeding described in paragraph (2)(A)
18	commences) for the Indian tribe.
19	"(2) Criminal records check before fos-
20	TER CARE PLACEMENT.—
21	"(A) IN GENERAL.—Except as provided in
22	paragraph (3), no foster care placement shall be
23	finally approved and no foster care license shall
24	be issued until the tribal social services agen-
25	cy—

1	"(i) completes a criminal records
2	check of each covered individual who re-
3	sides in the household or is employed at
4	the institution in which the foster care
5	placement will be made; and
6	"(ii) concludes that each covered indi-
7	vidual described in clause (i) meets such
8	standards as the Indian tribe shall estab-
9	lish in accordance with subparagraph (B).
10	"(B) STANDARDS OF PLACEMENT.—The
11	standards described in subparagraph (A)(ii)
12	shall include—
13	"(i) requirements that each tribal so-
14	cial services agency described in subpara-
15	graph (A)—
16	"(I) perform criminal records
17	checks, including fingerprint-based
18	checks of national crime information
19	databases (as defined in section
20	534(f)(3) of title 28, United States
21	Code);
22	"(II) check any abuse registries
23	maintained by the Indian tribe; and
24	"(III) check any child abuse and
25	neglect registry maintained by the

State in which the covered individual resides for information on the covered individual, and request any other State in which the covered individual resided in the preceding 5 years, to enable the tribal social services agency to check any child abuse and neglect registry maintained by that State for such information; and

"(ii) any other additional requirement that the Indian tribe determines is necessary and permissible within the existing authority of the Indian tribe, such as the creation of voluntary agreements with State entities in order to facilitate the sharing of information related to the performance of criminal records checks.

"(C) RESULTS.—Except as provided in paragraph (3), no foster care placement shall be ordered in any proceeding described in subparagraph (A) if an investigation described in clause (i) of that subparagraph reveals that a covered individual described in that clause has been found by a Federal, State, or tribal court to have committed any crime listed in clause (i) or

1	(ii) of section 471(a)(20)(A) of the Social Secu-
2	rity Act (42 U.S.C. 671(a)(20)(A)).
3	"(3) Emergency placement.—Paragraph (2)
4	shall not apply to an emergency foster care place-
5	ment, as determined by a tribal social services agen-
6	cy.
7	"(4) Recertification of foster homes or
8	INSTITUTIONS.—
9	"(A) IN GENERAL.—Not later than 2 years
10	after the date of enactment of this subsection,
11	each Indian tribe shall establish procedures to
12	recertify homes or institutions in which foster
13	care placements are made.
14	"(B) Contents.—The procedures de-
15	scribed in subparagraph (A) shall include, at a
16	minimum, periodic intervals at which the home
17	or institution shall be subject to recertification
18	to ensure—
19	"(i) the safety of the home or institu-
20	tion for the Indian child; and
21	"(ii) that each covered individual who
22	resides in the home or is employed at the
23	institution is subject to a criminal records
24	check in accordance with this subsection,
25	including any covered individual who—

1	"(I) resides in the home or is em-
2	ployed at the institution on the date
3	on which the procedures established
4	under subparagraph (A) commences;
5	and
6	"(II) did not reside in the home
7	or was not employed at the institution
8	on the date on which the investigation
9	described in paragraph (2)(A)(i) was
10	completed.
11	"(C) GUIDANCE ISSUED BY THE SEC-
12	RETARY.—The procedures established under
13	subparagraph (A) shall be subject to any regu-
14	lation or guidance issued by the Secretary that
15	is in accordance with the purpose of this sub-
16	section.
17	"(5) GUIDANCE .—Not later than 2 years after
18	the date of enactment of this subsection and after
19	consultation with Indian tribes, the Secretary shall
20	issue guidance regarding—
21	"(A) procedures for a criminal records
22	check of any covered individual who—
23	"(i) resides in the home or is em-
24	ployed at the institution in which the fos-
25	ter care placement is made after the date

1	on which the investigation described in
2	paragraph (2)(A)(i) is completed; and
3	"(ii) was not the subject of an inves-
4	tigation described in paragraph (2)(A)(i)
5	before the foster care placement was made;
6	"(B) self-reporting requirements for foster
7	care homes or institutions in which any covered
8	individual described in subparagraph (A) re-
9	sides if the head of the household or the oper-
10	ator of the institution has knowledge that the
11	covered individual—
12	"(i) has been found by a Federal,
13	State, or tribal court to have committed
14	any crime listed in clause (i) or (ii) of sec-
15	tion 471(a)(20)(A) of the Social Security
16	Act $(42 \text{ U.S.C. } 671(a)(20)(A)); \text{ or }$
17	"(ii) is listed on a registry described
18	in clause (II) or (III) of paragraph
19	(2)(B)(i);
20	"(C) promising practices used by Indian
21	tribes to address emergency foster care place-
22	ment procedures under paragraph (3); and

1 "(D) procedures for certifying compliance 2 with this Act.".

Passed the House of Representatives June 1, 2015. Attest:

Clerk.

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