

116TH CONGRESS  
1ST SESSION

# H. R. 3977

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

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## 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”.

1 **SEC. 2. TRIBAL JURISDICTION OVER CRIMES OF DOMES-**  
2 **TIC, DATING, OR SEXUAL VIOLENCE, SEX**  
3 **TRAFFICKING, OR STALKING.**

4 Section 204 of Public Law 90–284 (25 U.S.C. 1304)  
5 (commonly known as the “Indian Civil Rights Act of  
6 1968”) is amended—

7 (1) in the section heading, by striking “**DO-**  
8 **MESTIC VIOLENCE**” and inserting “**DOMESTIC,**  
9 **DATING, OR SEXUAL VIOLENCE, SEX TRAF-**  
10 **FICKING, OR STALKING**”;

11 (2) in subsection (a)—

12 (A) in paragraph (1), by striking “means  
13 violence” and inserting “includes any violation  
14 of the criminal law of the Indian tribe that has  
15 jurisdiction over the Indian country where the  
16 violation occurs that is”;

17 (B) in paragraph (2)—

18 (i) by striking “means violence” and  
19 inserting “includes any violation of the  
20 criminal law of the Indian tribe that has  
21 jurisdiction over the Indian country where  
22 the violation occurs that is”; and

23 (ii) by striking “an Indian tribe that  
24 has jurisdiction over the Indian country  
25 where the violence occurs” and inserting  
26 “that Indian tribe”;

1 (C) in paragraph (4), by striking “domes-  
2 tic violence” and inserting “tribal”;

3 (D) by redesignating paragraphs (6) and  
4 (7) as paragraphs (9) and (10), respectively;

5 (E) by inserting after paragraph (5) the  
6 following:

7 “(6) RELATED CONDUCT.—The term ‘related  
8 conduct’ means conduct alleged to have been com-  
9 mitted by a defendant that—

10 “(A) is a violation of the criminal law of  
11 the Indian tribe that has jurisdiction over the  
12 Indian country where the underlying offense oc-  
13 curred; and

14 “(B) occurs in connection with the exercise  
15 of special tribal criminal jurisdiction by that In-  
16 dian tribe.

17 “(7) SEX TRAFFICKING.—

18 “(A) IN GENERAL.—The term ‘sex traf-  
19 ficking’ means conduct—

20 “(i) consisting of—

21 “(I) recruiting, enticing, har-  
22 boring, transporting, providing, ob-  
23 taining, advertising, maintaining, pa-  
24 tronizing, or soliciting by any means a  
25 person; or

1                   “(II) benefiting, financially or by  
2                   receiving anything of value, from par-  
3                   ticipation in a venture that has en-  
4                   gaged in an act described in subclause  
5                   (I); and

6                   “(ii) carried out with the knowledge,  
7                   or, except where the act constituting the  
8                   violation of clause (i) is advertising, in  
9                   reckless disregard of the fact, that—

10                   “(I) means of force, threats of  
11                   force, fraud, coercion, or any combina-  
12                   tion of such means will be used to  
13                   cause the person to engage in a com-  
14                   mercial sex act; or

15                   “(II) the person has not attained  
16                   the age of 18 years and will be caused  
17                   to engage in a commercial sex act.

18                   “(B) DEFINITIONS.—In this paragraph,  
19                   the terms ‘coercion’ and ‘commercial sex act’  
20                   have the meanings given the terms in section  
21                   1591(e) of title 18, United States Code.

22                   “(8) SEXUAL VIOLENCE.—The term ‘sexual vio-  
23                   lence’ means any nonconsensual sexual act or con-  
24                   tact proscribed by Federal, tribal, or State law, in-

1 including in any case in which the victim lacks the ca-  
2 pacity to consent to the act.”;

3 (F) in paragraph (9) (as redesignated by  
4 subparagraph (D))—

5 (i) in the paragraph heading, by strik-  
6 ing “DOMESTIC VIOLENCE” and inserting  
7 “TRIBAL”; and

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

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

11 “(11) STALKING.—The term ‘stalking’ means  
12 engaging in a course of conduct directed at a spe-  
13 cific person that would cause a reasonable person—

14 “(A) to fear for his or her safety or the  
15 safety of others; or

16 “(B) to suffer substantial emotional dis-  
17 tress.”;

18 (3) in subsection (b)—

19 (A) by striking “domestic violence” each  
20 place the term appears and inserting “tribal”;  
21 and

22 (B) in paragraph (4)—

23 (i) by striking subparagraph (B);

24 (ii) by striking the paragraph designa-  
25 tion and heading and all that follows

1 through “A participating” in clause (i) of  
2 subparagraph (A) and inserting the fol-  
3 lowing:

4 “(4) EXCEPTION FOR NON-INDIAN VICTIM AND  
5 DEFENDANT.—

6 “(A) IN GENERAL.—A participating”; and  
7 (iii) by striking “(ii) DEFINITION OF  
8 VICTIM.—In this subparagraph” and in-  
9 serting the following:

10 “(B) DEFINITION OF VICTIM.—In this  
11 paragraph”;

12 (4) in subsection (c)—

13 (A) in the matter preceding paragraph (1),  
14 by striking “domestic violence” and inserting  
15 “tribal”;

16 (B) in paragraph (1)—

17 (i) in the paragraph heading, by strik-  
18 ing “VIOLENCE AND DATING” and insert-  
19 ing “, DATING, AND SEXUAL”; and

20 (ii) by striking “or dating violence”  
21 and inserting “, dating violence, or sexual  
22 violence”; and

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

24 “(3) STALKING.—An act of stalking that occurs  
25 in the Indian country of the participating tribe.

1           “(4) SEX TRAFFICKING.—An act of sex traf-  
2           ficking that occurs in the Indian country of the par-  
3           ticipating tribe.

4           “(5) RELATED CONDUCT.—An act of related  
5           conduct that occurs in the Indian country of the  
6           participating tribe.”;

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

10          (6) in subsection (f)—

11           (A) by striking “special domestic violence”  
12           each place the term appears and inserting “spe-  
13           cial tribal”;

14           (B) in paragraph (2), by striking “pros-  
15           ecutes” and all that follows through the semi-  
16           colon at the end and inserting the following:  
17           “prosecutes—

18           “(A) a crime of domestic violence;

19           “(B) a crime of dating violence;

20           “(C) a crime of sexual violence;

21           “(D) a criminal violation of a protection  
22           order;

23           “(E) a crime of stalking;

24           “(F) a crime of sex trafficking; or

25           “(G) a crime of related conduct;” and

1                   (C) in paragraph (4), by inserting “sexual  
2                   violence, stalking, sex trafficking,” after “dat-  
3                   ing violence,”.

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