

114TH CONGRESS  
2D SESSION

# S. 3523

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 SENATE OF THE UNITED STATES

DECEMBER 8, 2016

Mr. FRANKEN (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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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 felony or  
14 misdemeanor violation of the criminal law of  
15 the Indian tribe that has jurisdiction over the  
16 Indian country where the violation occurs that  
17 is”;

18 (B) in paragraph (2)—

19 (i) by striking “means violence” and  
20 inserting “includes any felony or mis-  
21 demeanor violation of the criminal law of  
22 the Indian tribe that has jurisdiction over  
23 the Indian country where the violation oc-  
24 curs that is”; and

25 (ii) by striking “an Indian tribe that  
26 has jurisdiction over the Indian country

1 where the violence occurs” and inserting  
2 “that Indian tribe”;

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

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

7 (E) by inserting after paragraph (5) the  
8 following:

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

12 “(A) is a violation of the criminal law or  
13 contempt authority of the tribal court of the In-  
14 dian tribe that has jurisdiction over the Indian  
15 country where the underlying offense occurred;  
16 and

17 “(B) occurs in connection with the exercise  
18 of special tribal criminal jurisdiction by that In-  
19 dian tribe.

20 “(7) SEX TRAFFICKING.—

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

23 “(i) consisting of—

24 “(I) recruiting, enticing, har-  
25 boring, transporting, providing, ob-

1           taining, advertising, maintaining, pa-  
2           tronizing, or soliciting by any means a  
3           person; or

4           “(II) benefitting, financially or  
5           by receiving anything of value, from  
6           participation in a venture that has en-  
7           gaged in an act described in subclause  
8           (I); and

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

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

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

21           “(B) DEFINITIONS.—In this paragraph,  
22           the terms ‘coercion’ and ‘commercial sex act’  
23           have the meanings given the terms in section  
24           1591(e) of title 18, United States Code.

1           “(8) SEXUAL VIOLENCE.—The term ‘sexual vio-  
2           lence’ means any nonconsensual sexual act or con-  
3           tact proscribed by Federal, tribal, or State law, in-  
4           cluding in any case in which the victim lacks the ca-  
5           pacity to consent to the act.”; and

6                   (F) in paragraph (9) (as redesignated by  
7           subparagraph (D))—

8                           (i) in the paragraph heading, by strik-  
9                           ing “DOMESTIC VIOLENCE” and inserting  
10                           “TRIBAL”; and

11                           (ii) by striking “domestic violence”  
12                           and inserting “tribal”; and

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

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

17                           “(A) to fear for his or her safety or the  
18                           safety of others; or

19                           “(B) to suffer substantial emotional dis-  
20                           tress.”;

21                   (3) in subsection (b)—

22                           (A) by striking “domestic violence” each  
23                           place it appears and inserting “tribal”; and

24                           (B) in paragraph (4)—

25                           (i) by striking subparagraph (B);

1 (ii) by striking the paragraph designa-  
 2 tion and heading and all that follows  
 3 through “A participating” in clause (i) of  
 4 subparagraph (A) and inserting the fol-  
 5 lowing:

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

8 “(A) IN GENERAL.—A participating”; and

9 (iii) by striking “(ii) DEFINITION OF  
 10 VICTIM.—In this subparagraph” and in-  
 11 sserting the following:

12 “(B) DEFINITION OF VICTIM.—In this  
 13 paragraph”;

14 (4) in subsection (c)—

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

18 (B) in paragraph (1)—

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

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

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

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

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

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

9           (5) in subsection (d), by striking “domestic vio-  
10          lence” each place it appears and inserting “tribal”;  
11          and

12          (6) in subsection (f)—

13                 (A) by striking “special domestic violence”  
14                 each place it appears and inserting “special  
15                 tribal”;

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

19                         “prosecutes—

20                                 “(A) a crime of domestic violence;

21                                 “(B) a crime of dating violence;

22                                 “(C) a crime of sexual violence;

23                                 “(D) a criminal violation of a protection  
24                                 order;

25                                 “(E) a crime of stalking;

1                   “(F) a crime of sex trafficking; or  
2                   “(G) a crime of related conduct;” and  
3                   (C) in paragraph (4), by inserting “sexual  
4                   violence, stalking, sex trafficking,” after “dat-  
5                   ing violence,”.

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