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SUMMARY AND EXPLANATION OF PROVISIONS IN THE TRIBAL LAW AND ORDER ACT OF 2010

Improves tools to fight domestic violence and sexual assault in Indian country

Thirty-four percent of American Indian and Alaska Native women will be raped or sexually assaulted, and 39% of Native women will suffer domestic or partner violence. To address this epidemic, the bill does the following:

- Requires FBI and U.S. Attorneys to maintain data when declining to prosecute a violent crimes in Indian country, which will encourage more aggressive prosecutions of rapes and sexual assaults (Section 102)
- This same provision requires FBI and U.S. Attorneys to share evidence with tribal justice officials that have concurrent jurisdiction over the alleged crime to enable the Tribe to pursue the case in tribal court
- Authorizes appointment of tribal prosecutors as Special Assistance U.S. Attorneys to prosecute minor crimes and crimes not subject to tribal court authority (example: non-Indian domestic violence) in Federal court (Sect. 103)
- Increases tribal sentencing authority up to 3 years per offense to enable tribes to prosecute domestic violence and sexual assaults (DV/SA) that are not prosecuted in Federal court (Section 304)
- Requires U.S. Bureau of Prisons to notify tribal authorities when releasing a sex offender that will work or reside in Indian country (Section 601)
- Requires Federal officers working in Indian country to receive training in handling DV/SA cases to improve interview techniques and crime scene/evidence handling (Section 602)
- Requires Indian Health Service (IHS) and Bureau of Indian Affairs (BIA) officials to testify in tribal court about information gained in the scope of their employment to aid in prosecutions of DV/SA cases (current regulations permit Federal officials to ignore tribal court subpoenas as FOIA requests) (Section 603)
- Requires IHS, BIA, and DOJ-VAWA to standardize protocol on the handling of all aspects of sexual assault cases in Indian country (Section 605)
- Requires the Government Accountability Office to examine the capacity of rural IHS facilities to handle sexual assault cases (Section 606)

Strengthens tribal courts, justice systems, and tribal sovereignty

Indian Tribes are the first responders to crime in Indian country. However, federal laws limit the ability of Tribes to combat crime on Indian lands: tribal courts are hampered by a one-year sentencing limit, tribal police arrest authority is limited to only members of Federally recognized Tribes, and tribal police are in some cases not provided access to national criminal history databases. To address these disparities, the bill does the following:

- Section 304 of the bill amends the Indian Civil Rights Act to enhance sentencing authority of all Federally recognized Indian tribes to up to 3 years in jail per offense, and clarifies that tribal courts can subject offenders to multiple charges (9-year maximum / trial). When a tribal court charges an offender to more than 1-year in jail, the tribe must:
 - provide licensed legal counsel to the defendant (licensed by either the Tribe, state, or Federal government)
 - ensure that tribal court judges presiding over 1+ cases are licensed and law trained (same licensing standards as above)
 - publish criminal laws, rules of evidence, and procedure
 - maintain an audio or video record of the criminal trial
 - *Cases that are not subject to more than 1-year in jail will be subject to the current Indian Civil Rights Act*
- Requires U.S. Attorneys that decline to prosecute violent reservation crimes to share evidence with tribal prosecutors to aid cases in tribal court (Section 102)
- Enhances deputizations of tribal police officers to enforce violations of Federal law in Indian country (Special Law Enforcement Commissions) (Section 301)
 - requires BIA to provide regional trainings to educate and certify tribal officers to enforce Federal laws
 - requires the BIA to establish criteria to enter into MOAs with Tribes for the Special Law Enforcement Commissions
 - requires MOAs to provide certified officers with Federal Tort protection for actions within the scope of their duties, and treat tribal police as federal officers (which will subject assaults on tribal officers as Federal felonies)
 - sets timeline of 60 days to approve MOAs when a Tribe meets all criteria
- Tribal police who obtain deputizations will gain authority:
 - to cite all offenders of Federal law on tribal lands (Indian and non-Indian)
 - to issue Central Violations Bureau citations for non-violent crimes
 - to make warrantless arrests when an officer has probable cause to believe a crime has occurred in a broader array of cases (exigent circumstances) – placing tribal police authority on par with Federal and State police
- Clarifies that tribal police are “authorized law enforcement official[s]” for purposes of accessing the National Crime Information Center, and improves access to all Federal criminal history databases (Section 303)
- Mandates tribal police access to the National Gang Intelligence Center database (Section 501)
- Makes tribal governments directly eligible for DOJ Criminal History Record Improvement grants (Section 502)
- *Public Law 83-280*. Clarifies that all Federally recognized Indian Tribes (including those in P.L. 280 states) have concurrent criminal authority over reservation crimes involving Indian offenders. Same provision authorizes Tribes subject to P.L. 280 to call on U.S. Attorneys where the state or local government does not have the resources or will to investigate or prosecute violent reservation crimes (Section 201)

Enhances Federal accountability, consultation, and coordination

The United States has treaty, trust, and Federal statutory obligations to provide public safety for and work with tribal justice systems to combat crime in Indian country. The bill will establish and strengthen standards to hold the U.S. to its obligations:

- FBI and U.S. Attorneys will share evidence with tribal justice officials when terminating investigations or declining to pursue a case in Federal court
- The Attorney General will maintain data on all case terminations and declinations, and report to Congress annually (Section 102)
- Codifies the use of Tribal Liaisons at each Federal District with Indian country, and requires Liaisons to consult and coordinate with tribal justice officials, and provide technical assistance to improve the ability of Tribes to respond to reservation crime (Section 103)
- Bureau of Indian Affairs response, consultation, and coordination (Sec. 101):
 - Requires BIA-Office of Justice Services (OJS) to share crime data with DOJ
 - Requires BIA-OJS to submit to Congress annual public safety spending and unmet needs reports on a wide range of public safety items
 - Requires BIA-OJS to consult on a regular basis with tribal communities on public safety concerns, and development of policies that affect public safety
- Urges Federal courts to hold trials in Indian country to permit the tribal community to see justice be done at home, rather than hear about cases in Federal courts that are often 100s of miles from the scene of the crime (Sec. 103)
- Makes permanent the Office of Tribal Justice within DOJ to serve as the policy advisor to the Attorney General to uphold the Government's treaty, trust, and statutory obligations to Indian Tribes (Section 104)
- Requires DOJ Director of Bureau of Justice Statistics (in coordination with Tribes and the BIA-OJS) to submit an annual report to Congress on crime in Indian country (Section 501)
- Requires DOJ and BIA-OJS, in coordination with Tribes, to develop a long-term plan for the construction, maintenance, and operation of tribal adult and juvenile detention and alternative rehabilitation centers (Sections 101 and 405)

Makes programmatic improvements to aid tribal justice systems

Tribal justice systems are the first responders to Indian country crime, and the U.S. has acknowledged that part of the obligation to provide for reservation public safety includes improving the ability of tribal governments to combat crime locally. To better meet this obligation, the bill reauthorizes and amends a number of Federal programs designed to empower all aspects of tribal justice systems.

- *Tribal courts.* Reauthorizes and amends the Indian Tribal Justice Support and Technical & Legal Assistance Acts, which provide funding for tribal court judicial personnel, public defenders, court facilities, development of records management systems, and other needs of tribal court systems (Section 402)
- *Substance abuse prevention.* More than 90% of crimes in Indian country are alcohol and substance abuse related. The bill reauthorizes and amends the Indian Alcohol and Substance Abuse Act (IASA), which authorizes grants for

summer youth programs, development of tribal juvenile codes, and construction of shelters and detention & treatment centers for at risk youth. It directs the Substance Abuse and Mental Health Service Administration (SAMHSA) to take the lead role in interagency coordination on tribal substance abuse programs. SAMHSA is authorized to establish and appoint a Director of the Office of Indian Alcohol and Substance Abuse that will develop a framework for interagency communication, and provide technical assistance to tribal governments to develop and enhance alcohol and substance abuse prevention programs. (Section 401)

- *Rehabilitation of Federal offenders.* The bill authorizes the appointment of Indian country residents to serve as assistant Federal probation officers to monitor offenders living on or reentering Indian lands. This provision also encourages U.S. Courts to offer services on or near Indian lands. (Sect. 405)
- *Juvenile justice.* Reauthorizes and amends the Tribal Youth Program within DOJ, expanding grant activities to include delinquency prevention, treatment, and rehabilitation of juvenile offenders. This provision also adds an expert in tribal juvenile services to the Coordinating Council on Juvenile Justice (Sect. 406)
- *Tribal police.* Reauthorizes and amends the Tribal Resources Grant Program within the DOJ Community Oriented Policing Services Office (COPS), removes time limits on hiring grants (previously 3-5 years), removes matching requirements, and permits tribes to use funds to cover indirect costs. (Sect. 403)
- *Tribal jails and justice centers.* Reauthorizes and amends the DOJ tribal jails construction program, including the authorization of construction of regional detention centers for long-term incarceration, and tribal justice centers that combine courts, police, and corrections services (Section 405)
- *Alaska Native Villages.* Section 407 repeals a FY 2004 appropriations rider to make all Federally recognized tribes in Alaska to eligible for Department of Justice tribal courts and COPS grants.

Improves tribal police recruitment, training, and retention

Less than 3,000 BIA and tribal police patrol over 56 million acres of Indian lands, less than half of the force needed. Offenders are aware of the shortfalls and are targeting reservations for drug trafficking. The lack of police also causes significant delays in responding to victims' calls for help. To address this shortfall, the bill:

- Expands the hiring age of Bureau of Indian Affairs police officers from 37 to 47 to enable retired Native military officers to serve Indian country when returning from duty (Section 301)
- Expands BIA and tribal police training opportunities to tribal, State, and local police academies and universities where such programs meet Peace Officer Standards and are consistent with Federal Law Enforcement Training standards (Section 301)
- Expedites BIA background checks of BIA police candidates, and requires tribal requests for background checks for 638 (Self-Determination) police candidates to be completed within 60 days (Section 301)