

# Policy Brief: VAWA 2022

Urban Indigenous Collective



## Violence Against Women Act Reauthorization 2022

written by: Zeriyah James

### Summary:

In 2022 President Joe Biden signed the reauthorization of the Violence Against Women Act (VAWA). This reauthorization further expanded tribal jurisdiction as it relates to the safety of Indigenous communities. The 2022 reauthorization will also be due for an update in 5 more years.

### Key Points:

- Addresses tribal jurisdiction within Indigenous communities
- Changes terminology: "Special Domestic Violence Criminal Jurisdiction" (SDVCJ) is now referred to as "Special Tribal Criminal Jurisdiction" (STCJ)
- Consolidates definition of what constitutes "violence"
- Allocates more funding and resources to improve the safety of Indian tribes

### VAWA Reauthorization 2022:

This reauthorization allows for the expansion of tribal jurisdiction and further "adds additional categories of criminal conduct that can be prosecuted against non-Indians in tribal court." In this update tribes now have the authority to prosecute non-Native perpetrators for criminal conducts pertaining to child violence, sexual violence, stalking, sex trafficking, assaults of tribal personnel, and obstruction of justice on tribal lands. Previous versions of VAWA were limited severely by how much authority they had over non-Native perpetrators, for example in the 2013 version of VAWA, it only allowed tribes to have jurisdiction of non-Natives for crimes related to domestic violence, dating violence, and criminal violations of a qualifying protection order. In the 2013 version, the victim also had to be Native and the perpetrator had to have "sufficient ties" to the community in order for tribal law enforcement to intervene. In the 2022 reauthorization the victims must be Native for "most, but not all crimes" and the defendant's ties to the communities are no longer a condition of tribal jurisdiction. This further allows tribes to have jurisdiction for crimes committed against Native individuals by a non-Native, and it also allows for jurisdiction of crimes committed by Native individuals even if the victim is non-Native. The leeway for what constitutes "sufficient ties" is also broken down, jurisdiction is no longer limited to non-Natives working on tribal lands or non-Natives who are in a relationship with members and non-members of the tribes whose lands these crimes may take place on.

Additionally this reauthorization replaces the terminology previously used in previous versions of VAWA, the "Special Domestic Violence Criminal Jurisdiction" (SDVCJ) is now changed to "Special Tribal Criminal Jurisdiction" (STCJ). In previous versions of VAWA there were numerous blurred lines as to what constitutes domestic violence, and in that process tribal jurisdiction became limited. The 2022 authorization not only expands the categories of conduct which can be prosecuted, but it also modifies what constitutes domestic violence and dating violence.

Previously there was confusion as to whether “violence” had to be a sufficient cause for prosecuting an individual, so in the 2022 reauthorization the definition of what constitutes “violence” is more concrete and now applies to “any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is violence committed by–

(A) a current or former spouse or intimate partner of the victim; by

(B) a person with whom the victim shares a child in common; by

(C) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or by

(D) a person similarly situated to a spouse of the victim under the domestic- or family-violence laws of an Indian tribe that has jurisdiction over the Indian country where the violation occurs.”

## **Conclusion:**

While the reauthorization has made significant progress we do need to be cognizant of its excessive reliance on police. Tribal law enforcement is an enhancement to VAWA as tribes have a better understanding of the needs of Native survivors, however this reliance on police should only serve as a temporary aid rather than a permanent solution. Another challenge of this reauthorization is the fact that it does not account for crimes that take place off of tribal lands. There still remains a gap in how it approaches cases related to Native survivors outside of their tribal communities. In regards to further improvement, VAWA will be due for an update in 5 more years and in the meantime we do hope federal legislation takes into consideration the voices of Indigenous people as they assess further changes.

## **References:**

[https://res.cloudinary.com/ncai/image/upload/v1649443190/Website%20General/STCJ-Overview\\_xkgtef.pdf](https://res.cloudinary.com/ncai/image/upload/v1649443190/Website%20General/STCJ-Overview_xkgtef.pdf)

<http://www.tribal-institute.org/VAWA22/Sec-by-Sec.pdf>

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