

**25 USC Ch. 15: CONSTITUTIONAL RIGHTS OF INDIANS****From Title 25—INDIANS****CHAPTER 15—CONSTITUTIONAL RIGHTS OF INDIANS****SUBCHAPTER I—GENERALLY**

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**SUBCHAPTER I—GENERALLY****§1301. Definitions**

For purposes of this subchapter, the term—

(1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;

(3) "Indian court" means any Indian tribal court or court of Indian offense; and

(4) "Indian" means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, if that person were to commit an offense listed in that section in Indian country to which that section applies.

(Pub. L. 90–284, title II, §201, Apr. 11, 1968, 82 Stat. 77; Pub. L. 101–511, title VIII, §8077(b), (c), Nov. 5, 1990, 104 Stat. 1892.)

**EDITORIAL NOTES****AMENDMENTS**

**1990**—Par. (2). Pub. L. 101–511, §8077(b), inserted at end "means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;"

Par. (4). Pub. L. 101–511, §8077(c), added par. (4).

**STATUTORY NOTES AND RELATED SUBSIDIARIES****SHORT TITLE**

Title II of Pub. L. 90–284, which is classified generally to this subchapter, is popularly known as the "Indian Civil Rights Act of 1968".

**TIME LIMITATION ON CRIMINAL MISDEMEANOR JURISDICTION OF TRIBAL COURTS OVER NON-MEMBER INDIANS**

Pub. L. 101–511, title VIII, §8077(d), Nov. 5, 1990, 104 Stat. 1893, as amended by Pub. L. 102–124, §1, Oct. 9, 1991, 105 Stat. 616, which provided that the effects of subsecs. (b) and (c), which amended this section, as those subsections affect the criminal misdemeanor jurisdiction of tribal courts over non-member Indians have no effect after Oct. 18, 1991, was repealed by Pub. L. 102–137, Oct. 28, 1991, 105 Stat. 646. Subsequent to repeal, Pub. L. 102–172, title VIII, §8112A(b), Nov. 26, 1991, 105 Stat. 1202, purported to amend section 8077(d) of Pub. L. 101–511 by substituting "1993" for "1991".

**§1302. Constitutional rights****(a) In general**

No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense (except as provided in subsection (b));

(7)(A) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

(B) except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of \$5,000, or both;

(C) subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of \$15,000, or both; or

(D) impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

**(b) Offenses subject to greater than 1-year imprisonment or a fine greater than \$5,000**

A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than \$5,000 but not to exceed \$15,000, or both, if the defendant is a person accused of a criminal offense who—

(1) has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

(2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

**(c) Rights of defendants**

In a criminal proceeding in which an Indian tribe, in exercising powers of self-government, imposes a total term of imprisonment of more than 1 year on a defendant, the Indian tribe shall—

- (1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and
- (2) at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;
- (3) require that the judge presiding over the criminal proceeding—
  - (A) has sufficient legal training to preside over criminal proceedings; and
  - (B) is licensed to practice law by any jurisdiction in the United States;
- (4) prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and
- (5) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

#### **(d) Sentences**

In the case of a defendant sentenced in accordance with subsections (b) and (c), a tribal court may require the defendant—

- (1) to serve the sentence—
  - (A) in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines to be developed by the Bureau of Indian Affairs (in consultation with Indian tribes) not later than 180 days after July 29, 2010;
  - (B) in the nearest appropriate Federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot program described in section 304(c) <sup>1</sup> of the Tribal Law and Order Act of 2010;
  - (C) in a State or local government-approved detention or correctional center pursuant to an agreement between the Indian tribe and the State or local government; or
  - (D) in an alternative rehabilitation center of an Indian tribe; or
- (2) to serve another alternative form of punishment, as determined by the tribal court judge pursuant to tribal law.

#### **(e) Definition of offense**

In this section, the term "offense" means a violation of a criminal law.

#### **(f) Effect of section**

Nothing in this section affects the obligation of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.

(Pub. L. 90–284, [title II, §202, Apr. 11, 1968](#), 82 Stat. 77; Pub. L. 99–570, [title IV, §4217, Oct. 27, 1986](#), 100 Stat. 3207–146; Pub. L. 111–211, [title II, §234\(a\), July 29, 2010](#), 124 Stat. 2279.)

### **EDITORIAL NOTES**

### **REFERENCES IN TEXT**

Section 304(c) of the Tribal Law and Order Act of 2010, referred to in subsec. (d)(1)(B), probably means section 234(c) of title II of Pub. L. 111–211, which is classified to section 1302a of this title. See par. (13) of H. Con. Res. 304 (111th Congress), which is not classified to the Code.

### **AMENDMENTS**

**2010**—Pub. L. 111–211, §234(a)(1), designated existing provisions as subsec. (a) and inserted subsec. heading.

Subsec. (a)(6). Pub. L. 111–211, §234(a)(2)(A), inserted "(except as provided in subsection (b))" after "assistance of counsel for his defense". Amendment was executed to reflect the probable intent of Congress, notwithstanding errors in the directory language in quoting the text to be inserted.

Subsec. (a)(7). Pub. L. 111–211, §234(a)(2)(B), added par. (7) and struck out former par. (7) which read as follows: "require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and a fine of \$5,000, or both;"

Subsecs. (b) to (f). Pub. L. 111–211, §234(a)(3), added subsecs. (b) to (f).

**1986**—Par. (7). Pub. L. 99–570, which directed that "for a term of one year and a fine of \$5,000, or both" be substituted for "for a term of six months and a fine of \$500, or both", was executed by making the substitution for "for a term of six months or a fine of \$500, or both" as the probable intent of Congress.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### BUREAU OF PRISONS TRIBAL PRISONER PILOT PROGRAM

Pub. L. 111–211, [title II, §234\(c\)](#), [July 29, 2010](#), 124 Stat. 2281, which related to establishment of tribal prisoner pilot program, was transferred to section 1302a of this title.

### PURPOSE OF 1986 AMENDMENT

Pub. L. 99–570, [title IV, §4217](#), [Oct. 27, 1986](#), 100 Stat. 3207–146, provided in part that amendment of par. (7) of this section was to "enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations".

<sup>1</sup> See References in Text note below.

### §1302a. Bureau of Prisons tribal prisoner program

#### (1) In general

Not later than 120 days after March 15, 2022, the Director of the Bureau of Prisons shall establish a program under which the Bureau of Prisons shall accept offenders convicted in tribal court pursuant to section 1302 of this title (as amended by this section), subject to the conditions described in paragraph (2).

#### (2) Conditions

##### (A) In general

As a condition of participation in the program described in paragraph (1), the tribal court shall submit to the Attorney General a request for confinement of the offender, for approval by the Attorney General (or a designee) by not later than 30 days after the date of submission.

##### (B) Limitations

Requests for confinement shall be limited to offenders convicted of a violent crime (comparable to the violent crimes described in section 1153(a) of title 18) for which the sentence includes a term of imprisonment of 1 or more years.

##### (C) Custody conditions

The imprisonment by the Bureau of Prisons shall be subject to the conditions described in section 5003 of title 18, regarding the custody of State offenders, except that the offender shall be placed in the nearest available and appropriate Federal facility, and imprisoned at the expense of the United States.

##### (D) Cap

The Bureau of Prisons shall confine not more than 100 tribal offenders at any time.

#### (3) Rescinding requests

##### (A) In general

The applicable tribal government shall retain the authority to rescind the request for confinement of a tribal offender by the Bureau of Prisons under this paragraph at any time during the sentence of the offender.

##### (B) Return to tribal custody

On rescission of a request under subparagraph (A), a tribal offender shall be returned to tribal custody.

#### (4) Reassessment

If tribal court demand for participation in this program exceeds 100 tribal offenders, a representative of the Bureau of Prisons shall notify Congress.

(Pub. L. 111–211, [title II, §234\(c\)](#), [July 29, 2010](#), 124 Stat. 2281; Pub. L. 117–103, [div. W, title VIII, §803](#), [Mar. 15, 2022](#), 136 Stat. 898.)

## EDITORIAL NOTES

## REFERENCES IN TEXT

Section 1302 of this title (as amended by this section), referred to in par. (1), is section 1302 of this title, as amended by section 234 of Pub. L. 111–211.

## CODIFICATION

Section was formerly set out as a note under section 1302 of this title.

Section was enacted as part of the Tribal Law and Order Act of 2010, and not as part of the Indian Civil Rights Act of 1968 which comprises this subchapter.

## **AMENDMENTS**

**2022**—Pub. L. 117–103, §803(1), (2), struck out "pilot" before "program" in section catchline and wherever appearing in text.

Par. (1). Pub. L. 117–103, §803(3), substituted "Not later than 120 days after March 15, 2022" for "Not later than 120 days after July 29, 2010".

Par. (2)(B). Pub. L. 117–103, §803(4), substituted "1 or more years" for "2 or more years".

Pars. (5), (6). Pub. L. 117–103, §803(5), struck out pars. (5) and (6) which read as follows:

"(5) **REPORT.**—Not later than 3 years after the date of establishment of the pilot program, the Attorney General shall submit to Congress a report describing the status of the program, including recommendations regarding the future of the program, if any.

"(6) **TERMINATION.**—Except as otherwise provided by an Act of Congress, the pilot program under this paragraph shall expire on the date that is 4 years after the date on which the program is established."

## **STATUTORY NOTES AND RELATED SUBSIDIARIES**

### **DEFINITIONS**

For definition of "tribal government" as used in this section, see section 203(a) of Pub. L. 111–211, set out as a note under section 2801 of this title.

## **§1303. Habeas corpus**

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

(Pub. L. 90–284, [title II, §203, Apr. 11, 1968](#), 82 Stat. 78.)

## **§1304. Tribal jurisdiction over covered crimes**

### **(a) Definitions**

In this section:

#### **(1) Assault of Tribal justice personnel**

The term "assault of Tribal justice personnel" means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that involves the use, attempted use, or threatened use of physical force against an individual authorized to act for, or on behalf of, that Indian tribe or serving that Indian tribe during, or because of, the performance or duties of that individual in—

- (A) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a covered crime;
- (B) adjudicating, participating in the adjudication of, or supporting the adjudication of a covered crime;
- (C) detaining, providing supervision for, or providing services for persons charged with a covered crime; or
- (D) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a covered crime.

#### **(2) Child**

The term "child" means a person who has not attained the lesser of—

- (A) the age of 18; and
- (B) except in the case of sexual abuse, the age specified by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs.

#### **(3) Child violence**

The term "child violence" means the use, threatened use, or attempted use of violence against a child proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs.

#### **(4) Coercion; commercial sex act**

The terms "coercion" and "commercial sex act" have the meanings given the terms in section 1591(e) of title 18.

#### **(5) Covered crime**

The term "covered crime" means—

- (A) assault of Tribal justice personnel;

- (B) child violence;
- (C) dating violence;
- (D) domestic violence;
- (E) obstruction of justice;
- (F) sexual violence;
- (G) sex trafficking;
- (H) stalking; and
- (I) a violation of a protection order.

#### **(6) Dating violence**

The term "dating violence" means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

#### **(7) Domestic violence**

The term "domestic violence" means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is committed by—

- (A) a current or former spouse or intimate partner of the victim;
- (B) a person with whom the victim shares a child in common;
- (C) a person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner; or
- (D) a person similarly situated to a spouse of the victim under the domestic- or family-violence laws of the Indian tribe that has jurisdiction over the Indian country where the violation occurs.

#### **(8) Indian country**

The term "Indian country" has the meaning given the term in section 1151 of title 18.

#### **(9) Obstruction of justice**

The term "obstruction of justice" means any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that involves interfering with the administration or due process of the laws of the Indian tribe, including any Tribal criminal proceeding or investigation of a crime.

#### **(10) Participating tribe**

The term "participating tribe" means an Indian tribe that elects to exercise special Tribal criminal jurisdiction over the Indian country of that Indian tribe.

#### **(11) Protection order**

The term "protection order"—

- (A) means any injunction, restraining order, or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; and
- (B) includes any temporary or final order issued by a civil or criminal court, whether obtained by filing an independent action or as a pendent lite order in another proceeding, if the civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

#### **(12) Sex trafficking**

The term "sex trafficking" means conduct within the meaning of section 1591(a) of title 18.

#### **(13) Sexual violence**

The term "sexual violence" means any nonconsensual sexual act or contact proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs, including in any case in which the victim lacks the capacity to consent to the act.

#### **(14) Special Tribal criminal jurisdiction**

The term "special Tribal criminal jurisdiction" means the criminal jurisdiction that a participating tribe may exercise under this section but could not otherwise exercise.

#### **(15) Spouse or intimate partner**

The term "spouse or intimate partner" has the meaning given the term in section 2266 of title 18.

#### **(16) Stalking**

The term "stalking" means engaging in a course of conduct directed at a specific person proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that would cause a reasonable person—

- (A) to fear for the person's safety or the safety of others; or
- (B) to suffer substantial emotional distress.

#### **(17) Violation of a protection order**

The term "violation of a protection order" means an act that—

- (A) occurs in the Indian country of a participating tribe; and
- (B) violates a provision of a protection order that—
  - (i) prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person;
  - (ii) was issued against the defendant;
  - (iii) is enforceable by the participating tribe; and
  - (iv) is consistent with section 2265(b) of title 18.

## **(b) Nature of the criminal jurisdiction**

### **(1) In general**

Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed by sections 1301 and 1303 of this title, the powers of self-government of a participating tribe, including any participating tribes in the State of Maine, include the inherent power of that tribe, which is hereby recognized and affirmed, to exercise special Tribal criminal jurisdiction over all persons.

### **(2) Concurrent jurisdiction**

The exercise of special Tribal criminal jurisdiction by a participating tribe shall be concurrent with the jurisdiction of the United States, of a State, or of both.

### **(3) Applicability**

Nothing in this section—

- (A) creates or eliminates any Federal or State criminal jurisdiction over Indian country; or
- (B) affects the authority of the United States or any State government that has been delegated authority by the United States to investigate and prosecute a criminal violation in Indian country.

### **(4) Exception if victim and defendant are both non-Indians**

#### **(A) In general**

A participating tribe may not exercise special Tribal criminal jurisdiction over an alleged offense, other than obstruction of justice or assault of Tribal justice personnel, if neither the defendant nor the alleged victim is an Indian.

#### **(B) Definition of victim**

In this paragraph and with respect to a criminal proceeding in which a participating tribe exercises special Tribal criminal jurisdiction based on a violation of a protection order, the term "victim" means a person specifically protected by a protection order that the defendant allegedly violated.

## **(c) Criminal conduct**

A participating tribe may exercise special Tribal criminal jurisdiction over a defendant for a covered crime that occurs in the Indian country of the participating tribe.

## **(d) Rights of defendants**

In a criminal proceeding in which a participating tribe exercises special Tribal criminal jurisdiction, the participating tribe shall provide to the defendant—

- (1) all applicable rights under this Act;
- (2) if a term of imprisonment of any length may be imposed, all rights described in section 1302(c) of this title;
- (3) the right to a trial by an impartial jury that is drawn from sources that—
  - (A) reflect a fair cross section of the community; and
  - (B) do not systematically exclude any distinctive group in the community, including non-Indians; and

(4) all other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise special Tribal criminal jurisdiction over the defendant.

## **(e) Petitions to stay detention**

### **(1) In general**

A person who has filed a petition for a writ of habeas corpus in a court of the United States under section 1303 of this title may petition that court to stay further detention of that person by the participating tribe.

### **(2) Grant of stay**

A court shall grant a stay described in paragraph (1) if the court—

- (A) finds that there is a substantial likelihood that the habeas corpus petition will be granted; and
- (B) after giving each alleged victim in the matter an opportunity to be heard, finds by clear and convincing evidence that under conditions imposed by the court, the petitioner is not likely to flee or pose a danger to any person or the community if released.

## **(f) Petitions for writs of habeas corpus**

**(1) In general**

After a defendant has been sentenced by a participating tribe, the defendant may file a petition for a writ of habeas corpus in a court of the United States under section 1303 of this title.

**(2) Requirement**

An application for a writ of habeas corpus on behalf of a person in custody pursuant to an order of a Tribal court shall not be granted unless —

- (A) the applicant has exhausted the remedies available in the Tribal court system;
- (B) there is an absence of an available Tribal corrective process; or
- (C) circumstances exist that render the Tribal corrective process ineffective to protect the rights of the applicant.

**(g) Notice; habeas corpus petitions**

A participating tribe that has ordered the detention of any person has a duty to timely notify in writing such person of their rights and privileges under this section and under section 1303 of this title.

**(h) Reimbursement and grants to Tribal governments****(1) Reimbursement****(A) In general**

The Attorney General may reimburse Tribal government authorities (or an authorized designee of a Tribal government) for expenses incurred in exercising special Tribal criminal jurisdiction.

**(B) Eligible expenses**

Eligible expenses for reimbursement under subparagraph (A) shall include expenses and costs incurred in, relating to, or associated with—

- (i) investigating, making arrests relating to, making apprehensions for, or prosecuting covered crimes (including costs involving the purchasing, collecting, and processing of sexual assault forensic materials);
- (ii) detaining, providing supervision of, or providing services for persons charged with covered crimes (including costs associated with providing health care);
- (iii) providing indigent defense services for 1 or more persons charged with 1 or more covered crimes; and
- (iv) incarcerating, supervising, or providing treatment, rehabilitation, or reentry services for 1 or more persons charged with 1 or more covered crimes.

**(C) Procedure****(i) In general**

Reimbursements authorized under subparagraph (A) shall be in accordance with rules promulgated by the Attorney General, after consultation with Indian tribes, and within 1 year after March 15, 2022.

**(ii) Maximum reimbursement**

The rules promulgated by the Attorney General under clause (i)—

- (I) shall set a maximum allowable reimbursement to any Tribal government (or an authorized designee of any Tribal government) in a 1-year period; and
- (II) may allow the Attorney General—

(aa) to establish conditions under which a Tribal government (or an authorized designee of a Tribal government) may seek a waiver to the maximum allowable reimbursement requirement established under subclause (I); and

(bb) to waive the maximum allowable reimbursement requirements established under subclause (I) for a Tribal government (or an authorized designee of a Tribal government) if the conditions established by the Attorney General under item (aa) are met by that Tribal government (or authorized designee).

**(iii) Timeliness of reimbursements**

To the maximum extent practicable, the Attorney General shall—

- (I) not later than 90 days after the date on which the Attorney General receives a qualifying reimbursement request from a Tribal government (or an authorized designee of a Tribal government)—

(aa) reimburse the Tribal government (or authorized designee); or

(bb) notify the Tribal government (or authorized designee) of the reason by which the Attorney General was unable to issue the reimbursement; and

(II) not later than 30 days after the date on which a Tribal government (or an authorized designee of a Tribal government) reaches the annual maximum allowable reimbursement for the Tribal government (or an authorized designee) established by the Attorney General under clause (ii)(I), notify the Tribal government (or authorized designee) that the Tribal government has reached its annual maximum allowable reimbursement.

**(D) Eligibility for participating tribes in Alaska**

A Tribal government (or an authorized designee of a Tribal Government) of an Indian tribe designated as a participating Tribe under subtitle B of title VIII of the Violence Against Women Act Reauthorization Act of 2022 shall



be eligible for reimbursement, in accordance with this paragraph, of expenses incurred in exercising special Tribal criminal jurisdiction under that subtitle.

## **(2) Grants**

The Attorney General may award grants to Tribal governments (or authorized designees of Tribal governments), including a Tribal government (or an authorized designee of a Tribal government) of an Indian tribe designated as a participating Tribe under subtitle B of title VIII of the Violence Against Women Act Reauthorization Act of 2022—

(A) to strengthen Tribal criminal justice systems to assist Indian tribes in exercising special Tribal criminal jurisdiction, including for—

(i) law enforcement (including the capacity of law enforcement, court personnel, or other non-law enforcement entities that have no Federal or State arrest authority agencies but have been designated by an Indian tribe as responsible for maintaining public safety within the territorial jurisdiction of the Indian tribe, to enter information into and obtain information from national crime information databases);

(ii) prosecution;

(iii) trial and appellate courts (including facilities maintenance, renovation, and rehabilitation);

(iv) supervision systems;

(v) detention and corrections (including facilities maintenance, renovation, and rehabilitation);

(vi) treatment, rehabilitation, and reentry programs and services;

(vii) culturally appropriate services and assistance for victims and their families; and

(viii) criminal codes and rules of criminal procedure, appellate procedure, and evidence;

(B) to provide indigent criminal defendants with licensed defense counsel, at no cost to the defendant, in criminal proceedings in which a participating tribe prosecutes covered crimes;

(C) to ensure that, in criminal proceedings in which a participating tribe exercises special Tribal criminal jurisdiction, jurors are summoned, selected, and instructed in a manner consistent with all applicable requirements; and

(D) to accord victims of covered crimes rights that are similar to the rights of a crime victim described in section 3771(a) of title 18 consistent with Tribal law and custom.

## **(i) Supplement, not supplant**

Amounts made available under this section shall supplement and not supplant any other Federal, State, or local government amounts made available to carry out activities described in this section.

## **(j) Authorization of appropriations**

### **(1) In general**

There is authorized to be appropriated \$25,000,000 for each of fiscal years 2023 through 2027—

(A) to carry out subsection (h); and

(B) to provide training, technical assistance, data collection, and evaluation of the criminal justice systems of participating tribes.

### **(2) Limitations**

Of the total amount made available under paragraph (1) for each fiscal year, not more than 40 percent shall be used for reimbursements under subsection (h)(1).

(Pub. L. 90–284, title II, §204, as added Pub. L. 113–4, [title IX, §904, Mar. 7, 2013](#), 127 Stat. 120; amended Pub. L. 117–103, [div. W, title VIII, §804, Mar. 15, 2022](#), 136 Stat. 898.)

## **EDITORIAL NOTES**

## **REFERENCES IN TEXT**

This Act, referred to in subsec. (d)(1), probably means title II of Pub. L. 90–284, [Apr. 11, 1968](#), 82 Stat. 77, popularly known as the Indian Civil Rights Act of 1968, which is classified generally to this subchapter.

Subtitle B of title VIII of the Violence Against Women Act Reauthorization Act of 2022, referred to in subsec. (h)(1)(D), (2), is subtitle B (§§811–813) of title VIII of div. W of Pub. L. 117–103, [Apr. 6, 2022](#), 136 Stat. 904, which enacted section 1305 of this title and provisions set out as notes under section 1305 of this title. For complete classification of subtitle B to the Code, see Tables.

## **AMENDMENTS**

**2022**—Pub. L. 117–103, §804(1), (2), substituted "covered crimes" for "crimes of domestic violence" in section catchline and, in text, substituted "special Tribal criminal jurisdiction" for "special domestic violence criminal jurisdiction" wherever appearing.

Subsec. (a)(1) to (5). Pub. L. 117–103, §804(3)(B), added pars. (1) to (5). Former pars. (1) to (5) redesignated (6) to (8), (10), and (11), respectively.

Subsec. (a)(6). Pub. L. 117–103, §804(3)(A), (C), redesignated par. (1) as (6) and substituted "any violation of the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs that is committed" for "violence committed". Former par. (6) redesignated (14).

Subsec. (a)(7). Pub. L. 117–103, §804(3)(D), added par. (7) and struck out former par. (7). Prior to amendment, text defined the term "domestic violence".

Pub. L. 117–103, §804(3)(A), redesignated par. (2) as (7). Former par. (7) redesignated (15).

Subsec. (a)(8). Pub. L. 117–103, §804(3)(A), redesignated par. (3) as (8).

Subsec. (a)(9). Pub. L. 117–103, §804(3)(E), added par. (9).

Subsec. (a)(10), (11). Pub. L. 117–103, §804(3)(A), redesignated pars. (4) and (5) as (10) and (11), respectively.

Subsec. (a)(12), (13). Pub. L. 117–103, §804(3)(F), added pars. (12) and (13).

Subsec. (a)(14). Pub. L. 117–103, §804(3)(A), (G), redesignated par. (6) as (14) and substituted "Special tribal criminal jurisdiction" for "Special domestic violence criminal jurisdiction" in heading.

Subsec. (a)(15). Pub. L. 117–103, §804(3)(A), redesignated par. (7) as (15).

Subsec. (a)(16), (17). Pub. L. 117–103, §804(3)(H), added pars. (16) and (17).

Subsec. (b)(1). Pub. L. 117–103, §804(4), inserted ", including any participating tribes in the State of Maine," after "the powers of self-government of a participating tribe".

Subsec. (b)(4). Pub. L. 117–103, §804(5), substituted "Exception if victim and defendant are both non-Indians" for "Exceptions" in par. heading and "In general" for "Victim and defendant are both non-Indians" in subpar. (A) heading, struck out cl. (i) designation and heading before "A participating", inserted ", other than obstruction of justice or assault of Tribal justice personnel," after "over an alleged offense", redesignated cl. (ii) of subpar. (A) as subpar. (B), substituted "paragraph" for "subparagraph", and struck out former subpar. (B) which related to defendant lacking ties to the Indian tribe.

Subsec. (c). Pub. L. 117–103, §804(6), added subsec. (c) and struck out former subsec. (c) which related to categories of criminal conduct in which a participating tribe may exercise special domestic violence criminal jurisdiction over a defendant.

Subsec. (e)(3). Pub. L. 117–103, §804(7), struck out par. (3). Prior to amendment, text read as follows: "An Indian tribe that has ordered the detention of any person has a duty to timely notify such person of his rights and privileges under this subsection and under section 1303 of this title."

Subsecs. (f) to (j). Pub. L. 117–103, §804(8), added subsecs. (f) to (j) and struck out former pars. (f) to (h), which related to grants to tribal governments, requirement that amounts made available supplement not supplant other funding, and authorization of appropriations for fiscal years 2014 through 2018, respectively.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–103 not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117–103, set out as an Effective Date note under section 6851 of Title 15, Commerce and Trade.

### EFFECTIVE DATES; PILOT PROJECT

Pub. L. 113–4, [title IX, §908, Mar. 7, 2013](#), 127 Stat. 125, provided that:

"(a) GENERAL EFFECTIVE DATE.—Except as provided in section 4 [18 U.S.C. 2261 note] and subsection (b) of this section, the amendments made by this title [see Tables for classification] shall take effect on the date of enactment of this Act [Mar. 7, 2013].

"(b) EFFECTIVE DATE FOR SPECIAL DOMESTIC-VIOLENCE CRIMINAL JURISDICTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (b) through (d) of section 204 of Public Law 90–284 [25 U.S.C. 1304(b)–(d)] (as added by section 904) shall take effect on the date that is 2 years after the date of enactment of this Act [Mar. 7, 2013].

"(2) PILOT PROJECT.—

"(A) IN GENERAL.—At any time during the 2-year period beginning on the date of enactment of this Act, an Indian tribe may ask the Attorney General to designate the tribe as a participating tribe under section 204(a) of Public Law 90–284 [25 U.S.C. 1304(a)] on an accelerated basis.

"(B) PROCEDURE.—The Attorney General may grant a request under subparagraph (A) after coordinating with the Secretary of the Interior, consulting with affected Indian tribes, and concluding that the criminal justice system of the requesting tribe has adequate safeguards in place to protect defendants' rights, consistent with section 204 of Public Law 90–284 [25 U.S.C. 1304].

"(C) EFFECTIVE DATES FOR PILOT PROJECTS.—An Indian tribe designated as a participating tribe under this paragraph may commence exercising special domestic violence criminal jurisdiction

pursuant to subsections (b) through (d) of section 204 of Public Law 90–284 on a date established by the Attorney General, after consultation with that Indian tribe, but in no event later than the date that is 2 years after the date of enactment of this Act."

## FINDINGS AND PURPOSES

Pub. L. 117–103, [div. W](#), [title VIII](#), [§801](#), [Mar. 15, 2022](#), 136 Stat. 895, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) American Indians and Alaska Natives are—

"(A) 2.5 times as likely to experience violent crimes; and

"(B) at least 2 times more likely to experience rape or sexual assault crimes;

"(2) more than 4 in 5 American Indian and Alaska Native women have experienced violence in their lifetime;

"(3) the vast majority of American Indian and Alaska Native victims of violence—96 percent of women victims and 89 percent of male victims—have experienced sexual violence by a non-Indian perpetrator at least once in their lifetime;

"(4) Indian Tribes exercising special domestic violence criminal jurisdiction over non-Indians pursuant to section 204 of Public Law 90–284 (25 U.S.C. 1304) (commonly known as the 'Indian Civil Rights Act of 1968'), restored by section 904 of the Violence Against Women Reauthorization Act of 2013 (Public Law 113–4; 127 Stat. 120), have reported significant success holding violent offenders accountable for crimes of domestic violence, dating violence, and civil protection order violations;

"(5) Tribal prosecutors for Indian Tribes exercising special domestic violence criminal jurisdiction report that the majority of domestic violence cases involve children either as witnesses or victims, and the Department of Justice reports that American Indian and Alaska Native children suffer exposure to violence at one of the highest rates in the United States;

"(6) childhood exposure to violence can have immediate and long-term effects, including increased rates of altered neurological development, poor physical and mental health, poor school performance, substance abuse, and overrepresentation in the juvenile justice system;

"(7) according to the Centers for Disease Control and Prevention, homicide is—

"(A) the third leading cause of death among American Indian and Alaska Native women between 10 and 24 years of age; and

"(B) the fifth leading cause of death for American Indian and Alaska Native women between 25 and 34 years of age;

"(8) in some areas of the United States, Native American women are murdered at rates more than 10 times the national average;

"(9) according to a 2017 report by the Department of Justice, 66 percent of criminal prosecutions for crimes in Indian country that United States Attorneys declined to prosecute involved assault, murder, or sexual assault;

"(10) investigation into cases of missing or murdered Indigenous women is made difficult for Tribal law enforcement agencies due to a lack of resources, including a lack of—

"(A) necessary personnel, training, equipment, or funding;

"(B) interagency cooperation;

"(C) appropriate laws in place; and

"(D) access to Federal law enforcement databases;

"(11) domestic violence calls are among the most dangerous calls that law enforcement receives;

"(12) the complicated jurisdictional scheme that exists in Indian country—

"(A) has a significant impact on public safety in Indian communities;

"(B) according to Tribal justice officials, has been increasingly exploited by criminals; and

"(C) requires a high degree of commitment and cooperation among Tribal, Federal, and State law enforcement officials;

"(13) restoring and enhancing Tribal capacity to address violence against women provides for greater local control, safety, accountability, and transparency;

"(14) Indian Tribes with restrictive settlement Acts, such as Indian Tribes in the State of Maine, and Indian Tribes located in States with concurrent authority to prosecute crimes in Indian country under the amendments made by the Act of August 15, 1953 (67 Stat. 590, chapter 506), face unique public safety challenges; and

"(15) Native Hawaiians experience a disproportionately high rate of human trafficking, with 64 percent of human trafficking victims in the State of Hawai'i identifying as at least part Native Hawaiian.

"(b) PURPOSES.—The purposes of this subtitle [subtitle A (§§801–804) of title VIII of div. W of Pub. L. 117–103, see Tables for classification] are—

"(1) to clarify the responsibilities of Federal, State, Tribal, and local law enforcement agencies with respect to responding to cases of domestic violence, dating violence, stalking, sex trafficking, sexual

violence, crimes against children, and assault against Tribal law enforcement officers;

"(2) to increase coordination and communication among Federal, State, Tribal, and local law enforcement agencies;

"(3) to empower Tribal governments and Native American communities, including urban Indian communities and Native Hawaiian communities, with the resources and information necessary to effectively respond to cases of domestic violence, dating violence, stalking, sex trafficking, sexual violence, and missing or murdered Native Americans; and

"(4) to increase the collection of data related to missing or murdered Native Americans and the sharing of information among Federal, State, Tribal, and local officials responsible for responding to and investigating crimes impacting Indian Tribes and Native American communities, including urban Indian communities and Native Hawaiian communities, especially crimes relating to cases of missing or murdered Native Americans."

[For definitions of terms used in section 801 of div. W of Pub. L. 117–103, set out above, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34].

## **§1305. Tribal jurisdiction in Alaska**

### **(a) In general**

Subject to title II of Public Law 90–284 (25 U.S.C. 1301 et seq.) (commonly known as the "Indian Civil Rights Act of 1968"), Congress recognizes and affirms the inherent authority of any Indian tribe occupying a Village in the State to exercise criminal and civil jurisdiction over all Indians present in the Village.

### **(b) Tribal civil jurisdiction to enforce protection orders**

#### **(1) In general**

A court of any Indian tribe in the State shall have full civil jurisdiction to issue and enforce protection orders involving any person in matters—

- (A) arising within the Village of the Indian tribe; or
- (B) otherwise within the authority of the Indian tribe.

#### **(2) Inclusions**

The full civil jurisdiction to issue and enforce protection orders under paragraph (1) includes the authority to enforce protection orders through—

- (A) civil contempt proceedings;
- (B) exclusion of violators from the Village of the Indian tribe; and
- (C) other appropriate mechanisms.

### **(c) Special Tribal criminal jurisdiction**

#### **(1) In general**

Notwithstanding any other provision of law, in addition to all powers of self-government recognized and affirmed under subsection (a), the powers of self-government of a participating Tribe include the inherent power of the participating Tribe, which is hereby recognized and affirmed, to exercise special Tribal criminal jurisdiction over a defendant for a covered crime that occurs in the Village of the participating Tribe.

#### **(2) Concurrent jurisdiction**

The exercise of special Tribal criminal jurisdiction by a participating Tribe shall be concurrent with the jurisdiction of the United States, the State, or both.

#### **(3) Exception if victim and defendant are both non-Indians**

##### **(A) In general**

A participating Tribe may not exercise special Tribal criminal jurisdiction over an alleged offense of a covered crime, other than obstruction of justice or assault of Tribal justice personnel, if neither the defendant nor the alleged victim is an Indian.

##### **(B) Definition of victim**

In this paragraph and with respect to a criminal proceeding in which a participating Tribe exercises special Tribal criminal jurisdiction based on a violation of a protection order, the term "victim" means a person specifically protected by the protection order that the defendant allegedly violated.

### **(d) Pilot program for special Tribal criminal jurisdiction over persons who are not Indians**

#### **(1) Establishment**

Subject to title II of Public Law 90–284 (25 U.S.C. 1301 et seq.) (commonly known as the "Indian Civil Rights Act of 1968"), there is established a pilot program under which the Attorney General, subject to paragraph (5), shall

designate not more than 5 Indian tribes per calendar year as participating Tribes to exercise the special Tribal criminal jurisdiction described in paragraph (6) over all persons present in the Village of the Indian tribe.

## **(2) Procedure**

At any time during the 1-year period beginning on March 15, 2022, and annually thereafter, an Indian tribe may request the Attorney General to designate the Indian tribe as a participating Tribe under paragraph (1).

## **(3) Designation of participating tribes**

### **(A) In general**

The Attorney General, in consultation with the Secretary of the Interior and affected Indian tribes, shall establish a process to designate Indian tribes to participate in the pilot program, which process shall—

(i) require that preference shall be given to Indian tribes occupying Villages—

(I) the populations of which are predominantly Indian; and

(II) that lack a permanent State law enforcement physical presence;

(ii) require that for each Indian tribe requesting to be designated as a participating Tribe, the Attorney General makes a determination that the criminal justice system of the Indian tribe has adequate safeguards in place to protect defendants' rights, consistent with section 204(d) of Public Law 90–284 (25 U.S.C. 1304(d)) (commonly known as the "Indian Civil Rights Act of 1968"); and

(iii) be subject to such other criteria as the Attorney General considers to be appropriate to achieve the purposes of this subtitle.

### **(B) Designation**

The Attorney General shall designate Indian tribes to participate in the pilot program under paragraph (1) using the process established under subparagraph (A).

## **(4) Intertribal participation**

### **(A) In general**

2 or more participating Tribes (or the Tribal organization (as defined in section 5304 of this title) of the participating Tribe, if the Tribal organization is exercising delegated authority from the participating Tribe)—

(i) may elect to participate jointly in the pilot program by providing shared resources to carry out the purposes of the pilot program; and

(ii) on making an election pursuant to clause (i), shall be considered to be a single participating Tribe for purposes of the maximum number of participating Tribes under paragraphs (1) and (5).

### **(B) Additional participating tribes**

#### **(i) In general**

Additional participating Tribes may elect to join an established intertribal partnership under subparagraph (A) at any time after the intertribal partnership is established.

#### **(ii) Application**

An intertribal partnership that additional participating Tribes elect to join pursuant to clause (i) shall be considered to be a single participating Tribe for purposes of the maximum number of participating Tribes under paragraphs (1) and (5).

## **(5) Maximum number of participating tribes**

### **(A) In general**

Except as provided in subparagraph (B), the Attorney General may designate not more than 30 Indian tribes to participate in the pilot program.

### **(B) Exception**

The limitation under subparagraph (A) shall not apply if the Attorney General submits to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives, and publishes in the Federal Register, a written notice of the intention to designate additional Indian tribes as participating Tribes, including the rationale for the designation, by not later than the date that is 180 days before the date of designation.

## **(6) Description of jurisdiction**

Congress recognizes and affirms that an Indian tribe selected to participate in the pilot program as a participating Tribe may exercise, subject to paragraph (7), special Tribal criminal jurisdiction with respect to covered crimes.

## **(7) Rights of defendants**

In exercising special Tribal criminal jurisdiction under the pilot program, a participating Tribe shall provide to each defendant all rights described in section 204(d) of Public Law 90–284 (25 U.S.C. 1304(d)) (commonly known as the "Indian Civil Rights Act of 1968").

## **(e) Sentences**

In a criminal proceeding in which an Indian court of a participating Tribe, in exercising special Tribal criminal jurisdiction with respect to a covered crime, imposes a sentence of imprisonment of more than 1 year on a defendant pursuant to section 202(b) of Public Law 90–284 (25 U.S.C. 1302(b)) (commonly known as the "Indian Civil Rights Act of 1968"), the Indian court may require the defendant—

(1) to serve a sentence—

(A) in a Tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines set by the Bureau of Indian Affairs;

(B) at the expense of the United States, in the nearest appropriate Federal facility pursuant to the Bureau of Prisons Tribal Prisoner Program established under section 1302a(c)(1) of this title; or

(C) at the expense of the participating Tribe and, subject to section 204(f)(1) of Public Law 90–284 (25 U.S.C. 1304(f)(1)) (commonly known as the "Indian Civil Rights Act of 1968"), reimbursable by the Attorney General, in a detention or correctional center approved by the State or a local government of the State pursuant to a memorandum of agreement between the participating Tribe and the State or local government of the State; or

(2) to serve another alternative form of punishment, as determined by the Indian court pursuant to Tribal law.

#### **(f) Memoranda of agreement**

The Attorney General and the Secretary of the Interior may enter into such memoranda of agreement with participating Tribes and the State as are necessary and appropriate—

(1) to coordinate respective law enforcement activities;

(2) to share equipment and other resources;

(3) to establish cross-deputization arrangements;

(4) to coordinate appropriate training activities; and

(5) to address any other matters that will facilitate the successful implementation of the pilot program, including intergovernmental agreements regarding—

(A) the incarceration of convicted persons; and

(B) cooperation in the investigation and prosecution of crimes.

#### **(g) Alaska Tribal Public Safety Advisory Committee**

##### **(1) Establishment**

Not later than 1 year March 15, 2022, the Attorney General, in consultation with the Secretary of the Interior, affected Indian tribes, and the State, shall establish a committee, to be known as the "Alaska Tribal Public Safety Advisory Committee" (referred to in this subsection as the "Committee").

##### **(2) Membership**

The Committee shall consist of 1 or more representatives from—

(A) participating Tribes and Indian tribes aspiring to participate in the pilot program;

(B) Federal, Tribal, State, and local law enforcement; and

(C) Tribal nonprofit organizations providing victim services.

##### **(3) Duties**

The Committee shall focus on—

(A) improving the justice systems, crime prevention, and victim services of Indian tribes and the State; and

(B) increasing coordination and communication among Federal, Tribal, State, and local law enforcement agencies.

##### **(4) Travel expenses**

A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Committee.

##### **(5) Nonapplicability of FACA**

The Federal Advisory Committee Act (5 U.S.C. App.) <sup>1</sup> shall not apply to the Committee.

##### **(6) Authorization of appropriations**

There are authorized to be appropriated to carry out this subsection such sums as may be necessary for the period of fiscal years 2023 through 2027, to remain available until expended.

#### **(h) Report to Congress**

Not later than 5 years after March 15, 2022, the Attorney General, in consultation with the Secretary of the Interior and affected Indian tribes, shall submit to Congress a report describing the results of the pilot program, including an explanation of any modifications to law necessary to facilitate improved law enforcement in Villages.

#### **(i) Applicability**

Nothing in this subtitle—

(1) limits, alters, expands, or diminishes the civil or criminal jurisdiction of the United States, the State, any subdivision of the State, or any Indian tribe in the State;



- (2) creates or eliminates any Federal or State criminal jurisdiction over a Village; or
- (3) affects the authority of the United States or any authority delegated by the United States to the State to investigate and prosecute a criminal violation in a Village.

(Pub. L. 117–103, [div. W, title VIII, §813, Mar. 15, 2022](#), 136 Stat. 906.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Indian Civil Rights Act of 1968, referred to in subsecs. (a) and (d)(1), is title II of Pub. L. 90–284, [Apr. 11, 1968](#), 82 Stat. 77, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

This subtitle, referred to in subsecs. (d)(3)(A)(iii) and (i), is subtitle B (§§811–813) of title VIII of div. W of Pub. L. 117–103, [Apr. 6, 2022](#), 136 Stat. 904, which enacted this section and provisions set out as notes below. For complete classification of subtitle B to the Code, see Tables.

The Federal Advisory Committee Act, referred to in subsec. (g)(5), is Pub. L. 92–463, [Oct. 6, 1972](#), 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, [§§3\(a\), 7, Dec. 27, 2022](#), 136 Stat. 4197, [4361](#). For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

### CODIFICATION

Section was enacted as part of the Violence Against Women Act Reauthorization Act of 2022, and not as part of Indian Civil Rights Act of 1968 which comprises this subchapter.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE

Section not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117–103, set out as a note under section 6851 of Title 15, Commerce and Trade.

### FINDINGS; PURPOSES

Pub. L. 117–103, [div. W, title VIII, §811, Mar. 15, 2022](#), 136 Stat. 904, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) according to the report of the Indian Law and Order Commission established by section 15 of the Indian Law Enforcement Reform Act (25 U.S.C. 2812), Alaska Native women—

"(A) are overrepresented in the domestic violence victim population by 250 percent;

"(B) in the State of Alaska, comprise—

"(i) 19 percent of the population of the State; but

"(ii) 47 percent of reported rape victims in the State; and

"(C) as compared to the populations of other Indian Tribes, suffer the highest rates of domestic and sexual violence;

"(2) most Alaska Native villages are located in remote areas that—

"(A) are often inaccessible by road; and

"(B) have no local law enforcement presence;

"(3) the Commission referred to in paragraph (1)—

"(A) determined that the Alaska Department of Public Safety—

"(i) has primary responsibility for law enforcement in rural Alaska; but

"(ii) provides only 1 to 1.4 field officers per 1,000,000 acres; and

"(B) recommended that 'devolving authority to Alaska Native communities is essential for addressing local crime. Their governments are best positioned to effectively arrest, prosecute, and punish, and they should have the authority to do so-or to work out voluntary agreements with each other, and with local governments and the State on mutually beneficial terms'; and

"(4) the unique legal relationship of the United States to Indian Tribes creates a Federal trust responsibility to assist Tribal governments in safeguarding the lives of Indian women.

"(b) PURPOSES.—The purposes of this subtitle [subtitle B (§§811–813) of title VIII of div. W of Pub. L. 117–103, [Apr. 6, 2022](#), 136 Stat. 904, which enacted this section and provisions set out as a note below] are—

"(1) to increase coordination and communication among Federal, State, Tribal, and local law enforcement agencies; and

"(2) to empower Indian Tribes to effectively respond to cases of domestic violence, dating violence, stalking, sex trafficking, sexual violence, and missing or murdered Alaska Natives through the exercise of special Tribal criminal jurisdiction."

[For definitions of terms used in section 811 of div. W of Pub. L. 117–103, set out above, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34].

## DEFINITIONS

For definitions of terms used in this section, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34.

Pub. L. 117–103, [div. W, title VIII, §812, Mar. 15, 2022](#), 136 Stat. 905, provided that: "In this subtitle [subtitle B (§§811–813) of title VIII of div. W of Pub. L. 117–103, [Apr. 6, 2022](#), 136 Stat. 904, which enacted this section and provisions set out as a note above]:

"(1) ASSAULT OF TRIBAL JUSTICE PERSONNEL; COVERED CRIME; OBSTRUCTION OF JUSTICE; PROTECTION ORDER; VIOLATION OF A PROTECTION ORDER.—

"(A) IN GENERAL.—The terms 'assault of Tribal justice personnel', 'covered crime', 'obstruction of justice', 'protection order', and 'violation of a protection order' have the meanings given the terms in section 204(a) of Public Law 90–284 (25 U.S.C. 1304(a)) (commonly known as the 'Indian Civil Rights Act of 1968').

"(B) APPLICATION.—For purposes of the application of the definitions of 'assault of Tribal justice personnel', 'obstruction of justice', and 'violation of a protection order', and for purposes of the application of the defined terms contained in the definition of 'covered crime', under section 204(a) of Public Law 90–284 (25 U.S.C. 1304(a)) (commonly known as the 'Indian Civil Rights Act of 1968') to the pilot program, the Attorney General shall modify any reference to 'Indian country' to mean the Village of a participating Tribe.

"(2) INDIAN; INDIAN COURT; INDIAN TRIBE; POWERS OF SELF-GOVERNMENT.—The terms 'Indian', 'Indian court', 'Indian tribe', and 'powers of self-government' have the meanings given the terms in section 201 of Public Law 90–284 (25 U.S.C. 1301) (commonly known as the 'Indian Civil Rights Act of 1968').

"(3) PARTICIPATING TRIBE.—The term 'participating Tribe' means an Indian tribe that is designated under section 813(d)(1) [25 U.S.C. 1305(d)(1)] as a participating Tribe to exercise special Tribal criminal jurisdiction.

"(4) PILOT PROGRAM.—The term 'pilot program' means the pilot program established by section 813(d)(1).

"(5) SPECIAL TRIBAL CRIMINAL JURISDICTION.—The term 'special Tribal criminal jurisdiction' means the criminal jurisdiction that a participating Tribe may exercise under this subtitle but could not otherwise exercise.

"(6) STATE.—The term 'State' means the State of Alaska.

"(7) VILLAGE.—The term 'Village' means the Alaska Native Village Statistical Area covering all or any portion of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), as depicted on the applicable Tribal Statistical Area Program Verification map of the Bureau of the Census."

<sup>1</sup> See References in Text note below.

## SUBCHAPTER II—MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

### §1311. Model code

The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training



of judges of courts of Indian offenses. In carrying out the provisions of this subchapter, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

(Pub. L. 90–284, [title III, §301, Apr. 11, 1968](#), 82 Stat. 78.)

## **§1312. Authorization of appropriations**

There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 90–284, [title III, §302, Apr. 11, 1968](#), 82 Stat. 78.)

### **SUBCHAPTER III—JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS**

## **§1321. Assumption by State of criminal jurisdiction**

### **(a) Consent of United States**

#### **(1) In general**

The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

#### **(2) Concurrent jurisdiction**

At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18 within the Indian country of the Indian tribe.

### **(b) Alienation, encumbrance, taxation, and use of property; hunting, trapping, or fishing**

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(Pub. L. 90–284, [title IV, §401, Apr. 11, 1968](#), 82 Stat. 78; Pub. L. 111–211, [title II, §221\(a\), July 29, 2010](#), 124 Stat. 2271.)

### **EDITORIAL NOTES**

### **AMENDMENTS**

**2010**—Pub. L. 111–211 substituted "Assumption by State of criminal jurisdiction" for "Assumption by State" in section catchline, inserted subsec. (a) heading, inserted par. (1) designation and heading, and added par. (2). Amendment to section catchline was executed as the probable intent of Congress, notwithstanding directory language which erroneously directed the amendment to subsec. (a).

## **§1322. Assumption by State of civil jurisdiction**

### **(a) Consent of United States; force and effect of civil laws**

The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction

over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

**(b) Alienation, encumbrance, taxation, use, and probate of property**

Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

**(c) Force and effect of tribal ordinances or customs**

Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

(Pub. L. 90–284, [title IV](#), [§402](#), [Apr. 11, 1968](#), 82 Stat. 79.)

## **§1323. Retrocession of jurisdiction by State**

**(a) Acceptance by United States**

The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18, section 1360 of title 28, or section 7 of the Act of August 15, 1953 (67 Stat. 588), as it was in effect prior to its repeal by subsection (b) of this section.

**(b) Repeal of statutory provisions**

Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal.

(Pub. L. 90–284, [title IV](#), [§403](#), [Apr. 11, 1968](#), 82 Stat. 79.)

### **EDITORIAL NOTES**

### **REFERENCES IN TEXT**

Section 7 of the Act of August 15, 1953, referred to in text, is section 7 of act [Aug. 15, 1953, ch. 505](#), 67 Stat. 588, which is set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure.

### **EXECUTIVE DOCUMENTS**

#### **EX. ORD. NO. 11435. DESIGNATING SECRETARY OF THE INTERIOR TO ACCEPT RETROCESSION OF JURISDICTION BY STATE**

Ex. Ord. No. 11435, Nov. 21, 1968, 33 F.R. 17339, provided:

By virtue of the authority vested in me by [section 465 of the Revised Statutes](#) (25 U.S.C. 9) and as President of the United States, the Secretary of the Interior is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President or of any other officer of the United States, any and all authority conferred upon the United States by Section 403(a) of the Act of April 11, 1968, 82 Stat. 79 (25 U.S.C. 1323(a)): *Provided*, That acceptance of retrocession of all or any measure of civil or criminal jurisdiction, or both, by the Secretary hereunder shall be effected by publication in the FEDERAL REGISTER of a notice which shall specify the jurisdiction retroceded and the effective date of the retrocession: *Provided further*, That acceptance of such retrocession of criminal jurisdiction shall be effected only after consultation by the Secretary with the Attorney General.

LYNDON B. JOHNSON.

## **§1324. Amendment of State constitutions or statutes to remove legal impediment; effective date**

Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the

provisions of this subchapter. The provisions of this subchapter shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

(Pub. L. 90–284, [title IV, §404, Apr. 11, 1968](#), 82 Stat. 79.)

## **§1325. Abatement of actions**

### **(a) Pending actions or proceedings; effect of cession**

No action or proceeding pending before any court or agency of the United States immediately prior to any cession of jurisdiction by the United States pursuant to this subchapter shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

### **(b) Criminal actions; effect of cession**

No cession made by the United States under this subchapter shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

(Pub. L. 90–284, [title IV, §405, Apr. 11, 1968](#), 82 Stat. 80.)

## **§1326. Special election**

State jurisdiction acquired pursuant to this subchapter with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

(Pub. L. 90–284, [title IV, §406, Apr. 11, 1968](#), 82 Stat. 80.)

## **SUBCHAPTER IV—EMPLOYMENT OF LEGAL COUNSEL**

## **§1331. Approval**

Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

(Pub. L. 90–284, [title VI, §601, Apr. 11, 1968](#), 82 Stat. 80.)

## **SUBCHAPTER V—MATERIALS AND PUBLICATIONS**

## **§1341. Authorization of Secretary**

### **(a) Revision of document on "Indian Affairs, Laws and Treaties" and treatise on "Federal Indian Laws"; compilation of official opinions; printing and republication**

In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to—

- (1) have the document entitled "Indian Affairs, Laws and Treaties" (Senate Document Numbered 319, volumes 1 and 2, Fifty-eighth Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Publishing Office;

- (2) have revised and republished the treatise entitled "Federal Indian Law"; and
- (3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Publishing Office.

**(b) Current services**

With respect to the document entitled "Indian Affairs, Laws and Treaties" as revised and extended in accordance with paragraph (1) of subsection (a), and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior shall take such action as may be necessary to keep such document and compilation current on an annual basis.

**(c) Authorization of appropriations**

There is authorized to be appropriated for carrying out the provisions of this subchapter such sum as may be necessary.

(Pub. L. 90–284, title VII, §701, Apr. 11, 1968, 82 Stat. 80; Pub. L. 93–265, Apr. 12, 1974, 88 Stat. 84; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

**EDITORIAL NOTES**

**AMENDMENTS**

**1974**—Subsec. (c). Pub. L. 93–265 struck out ", with respect to the preparation but not including printing," before "such sum".

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**CHANGE OF NAME**

"Government Publishing Office" substituted for "Government Printing Office" in subsec. (a)(1), (3) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.