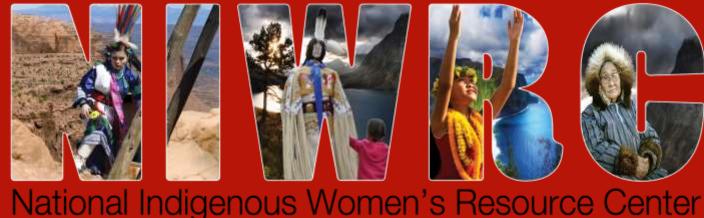


# The Violence Against Women Act

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### Overview



NATIVE SURVIVORS CAN'T WAIT...
REAUTHORIZE THE VIOLENCE AGAINST
WOMEN ACT

#VAWA4ALL

#VAWA18

#TRIBALVAWA

**#VAWA4NATIVES** 



According to the National Institute of Justice,

4/5 American Indian and Alaska Native Women will experience violence in their lifetimes.

56.1% will experience sexual violence.

55.5% will experience intimate partner violence (physical).

48.8% will experience stalking.

The majority of American Indian and Alaska Native victims have experienced violence at the hands of at least one interracial perpetrator in their lifetime — <u>97 percent of female victims and 90 percent of male victims.</u>



### The Violence Against Women Act

- Enacted in 1994
- Subsequently reauthorized in 2000, 2008 and 2013
- In 2000, Title IX "Safety for Indian Women" Title is created
- With each VAWA, the Act has been reauthorized to include significant improvements.

### VAWA 2013



### VAWA 2013 Reauthorization

- Historic Amendment
- Restored inherent tribal authority of Indian Tribes to prosecute non-native defendants for certain crimes (partial *Oliphant* fix) known as Special Domestic Violence Criminal Jurisdiction
- Limited in Scope
  - Domestic Violence
  - Dating Violence
  - Violations of a Protection Order



### VAWA 2013 Reauthorization

### • Limited in Scope

- Domestic Violence
- Dating Violence
- Violations of a Protection Order
- Defendant must have close ties to Indian Country:
  - Resides in IC of tribe;
  - Employed in the IC of tribe; or
  - A spouse, intimate partner or dating partner of a tribal member or non-member Indian who resides in the IC of the tribe.



### VAWA 2013 Reauthorization

### • In order for tribes to implement SDVCJ:

- Must protect rights of defendants under the Indian Civil Rights Act of 1968 (including the right to due process)
- Must protect the rights of defendants described in the Tribal Law and Order Act of 2010 by providing effective assistance of counsel, free/appointed/licensed attorneys for indigent defendants, law-trained tribal judges who are also licensed to practice law, publicly available tribal criminal laws and rules, and recorded criminal proceedings.
- Include a fair cross-section of the community in jury pools and not systematically exclude non-Indians
- Inform defendants ordered detained by a tribal court of their right to file federal habeas corpus petitions

# Partial Fix and The Resulting Gaps



### VAWA 2013 Gaps

- SDVCJ was limited and scope and does not include:
  - Co-occurring instances of child abuse
  - Sexual assault (by a stranger or acquaintance), stalking, sex trafficking
  - Attendant crimes (examples from NCAI's SDVCJ 5 Year Report)
    - Unlawful use of weapon
    - Obstruction of justice
    - Criminal mischief
    - Drug possession
    - Assault on law enforcement/jailer
    - Criminal contempt
    - DUI
    - Damage to government Property

## Expanding SDVCJ



### Expanding SDVCJ

- Full Oliphant Fix
- Addressing the gaps that implementation has revealed
  - Co-occurring child abuse
  - Attendant crimes
  - Sexual assault, sex trafficking, stalking



### Pending Legislation

- Justice For Native Survivors Act (S. 3216, formerly S. 1986)
- Bipartisan
- Tina Smith (D-MN), Murkowski (R-AK) and Udall (D-NM)
- Expands SDVCJ to include sexual assault, sex trafficking and stalking



### Pending Legislation

- Native Youth an Tribal Officer Protection Act (S.2233)
- Bipartisan
- Udall (D-NM), Murkowski (R-AK) and Cortez-Masto (D-NV)
- Expands SDVCJ to co-occurring child abuse and other attendant crimes
- Has a House companion bill (H.R. 6728) which also has bipartisan support.

## Reauthorizing the VAWA



### Pending VAWA Reauthorization Legislation

- The 2018 Violence Against Women Reauthorization Act (H.R. 6545)
- Does not have bipartisan support
- Original Cosponsor is Sheila Jackson Lee (D-TX-18)
- Expands SDVCJ by including provisions from The Justice for Native Survivors Act and the Native Youth and Tribal Officers Protection Act
- Also:
  - Includes a \$3 Million authorization for TAP
  - Incorporates provisions from Savanna's Act (S. 1942/H.R. 4485) to addressing missing and murdered issues
  - Creates a federal criminal penalty for certain violations of tribal exclusion orders



### Pending VAWA Reauthorization Legislation

- Violence Against Women Extension Act of 2018 (H.R. 6796)
  - Stefanik (R-NY-21)
  - 11 Cosponsors
  - Referred to the Subcommittee on Indian, Insular and Alaska Native Affairs on 9/20/18
  - Six month extension, but...

Section	Authorized Funding	Stefanik's Bill
<b>Section 904.</b> Authorizing Funding for the	\$1,000,000.00	\$500,000.00
Tribal Access Program		
Section 907. Tribal Jurisdiction	\$5,000,000.00	\$2,500,000.00
Section 908. National Baseline Study	\$1,000,000.00	\$0.00



### Pending VAWA Reauthorization Legislation

- Violence Against Women Reauthorization Act of 2018 (H.R. 6797)
  - Poe (R-TX-2)
  - Reauthorizes through Fiscal Year 2019
  - No Cosponsors
  - Referred to House Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs on 9/20/2018



### Where VAWA is Now

- Was set to expire on September 30, 2018
  - Funding is the only piece that requires reauthorization
- C.R. passed to fund through December 7, 2018
  - 3 month extension (straight)
  - The CR text states that "any program, authority or provision, including any pilot program, authorized under the Violence Against Women Act of 2013 shall continue in effect through December 7, 2018."



### Contact

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