



The Violence Against Women Act

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Overview

A BRAID OF SAFETY FOR ALL

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 — ***97 percent of female victims and 90 percent of male victims.***



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 in 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 and 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
Section 904. Authorizing Funding for the Tribal Access Program	\$1,000,000.00	\$500,000.00
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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