

Calendar No. 368

115TH CONGRESS
2D SESSION

S. 1870

[Report No. 115–220]

To amend the Victims of Crime Act of 1984 to secure urgent resources
vital to Indian victims of crime, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2017

Mr. HOEVEN (for himself, Mr. MCCAIN, Ms. HEITKAMP, Ms. CORTEZ MASTO,
Mr. FRANKEN, Mr. DAINES, Mr. TESTER, Mr. BARRASSO, Ms. MUR-
KOWSKI, Mr. UDALL, and Mrs. MURRAY) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

APRIL 9, 2018

Reported by Mr. HOEVEN, without amendment

A BILL

To amend the Victims of Crime Act of 1984 to secure
urgent resources vital to Indian victims of crime, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Securing Urgent Re-
3 sources Vital to Indian Victim Empowerment Act” or the
4 “SURVIVE Act”.

5 **SEC. 2. INDIAN VICTIMS OF CRIME.**

6 (a) GRANT PROGRAM FOR INDIAN CRIME VICTIM
7 SERVICES.—The Victims of Crime Act of 1984 (34 U.S.C.
8 20101 et seq.) is amended by inserting after section
9 1404F the following:

10 “GRANT PROGRAM FOR INDIAN CRIME VICTIM SERVICES

11 “SEC. 1404G. (a) DEFINITIONS.—In this section:

12 “(1) APPROPRIATE COMMITTEES OF CON-
13 GRESS.—The term ‘appropriate committees of Con-
14 gress’ means—

15 “(A) the Committee on Indian Affairs of
16 the Senate;

17 “(B) the Subcommittee on Indian, Insular
18 and Alaska Native Affairs of the Committee on
19 Natural Resources of the House of Representa-
20 tives;

21 “(C) the Committee on the Judiciary of
22 the Senate; and

23 “(D) the Committee on the Judiciary of
24 the House of Representatives.

25 “(2) COVERED GRANT.—The term ‘covered
26 grant’ means a grant under subsection (c).

1 “(3) ELIGIBLE INDIAN TRIBE.—The term ‘eligi-
2 ble Indian tribe’ means an Indian tribe that submits
3 a written proposal for a covered grant to the Direc-
4 tor in accordance with subsection (c)(2).

5 “(4) IMMEDIATE FAMILY MEMBER.—The term
6 ‘immediate family member’ has the meaning given
7 the term in section 115(c) of title 18, United States
8 Code.

9 “(5) INDIAN.—The term ‘Indian’ means a
10 member of an Indian tribe.

11 “(6) INDIAN LAND.—The term ‘Indian land’
12 has the meaning given the term ‘Indian lands’ in
13 section 3 of the Native American Business Develop-
14 ment, Trade Promotion, and Tourism Act of 2000
15 (25 U.S.C. 4302).

16 “(7) INDIAN TRIBE.—The term ‘Indian tribe’
17 has the meaning given the term in section 4 of the
18 Indian Self-Determination and Education Assistance
19 Act (25 U.S.C. 5304).

20 “(8) PERSONALLY IDENTIFYING INFORMA-
21 TION.—The term ‘personally identifying information’
22 has the meaning given the term in section 40002(a)
23 of the Violence Against Women Act of 1994 (34
24 U.S.C. 12291(a)).

1 “(9) SERVICES TO VICTIMS OF CRIME.—The
2 term ‘services to victims of crime’—

3 “(A) has the meaning given the term in
4 section 1404; and

5 “(B) includes efforts that—

6 “(i) respond to the emotional, psycho-
7 logical, or physical needs of a victim of
8 crime;

9 “(ii) assist a victim of crime in stabi-
10 lizing his or her life after victimization;

11 “(iii) assist a victim of crime in un-
12 derstanding and participating in the crimi-
13 nal justice system; or

14 “(iv) restore a measure of security
15 and safety for a victim of crime.

16 “(10) VICTIM OF CRIME.—The term ‘victim of
17 crime’ means an individual who has suffered direct
18 physical, sexual, financial, or emotional harm as a
19 result of the commission of a crime.

20 “(b) DUTIES OF THE DIRECTOR.—The Director
21 shall—

22 “(1) administer the grant program described in
23 subsection (c);

1 “(2) provide planning, research, training, and
2 technical assistance to recipients of covered grants;
3 and

4 “(3) coordinate with the Office of Tribal Jus-
5 tice, the Indian Health Service, and the Bureau of
6 Indian Affairs in implementing the grant program
7 described in subsection (c).

8 “(c) GRANT PROGRAM.—

9 “(1) IN GENERAL.—On an annual basis, the
10 Director shall make grants to eligible Indian tribes
11 for the purposes of funding—

12 “(A) a program, administered by one or
13 more Indian tribes, that provides services to
14 victims of crime, which may be provided in tra-
15 ditional form or through electronic, digital, or
16 other technological formats, including—

17 “(i) services to victims of crime pro-
18 vided through subgrants to agencies or de-
19 partments of tribal governments or non-
20 profit organizations;

21 “(ii) domestic violence shelters, rape
22 crisis centers, child abuse programs, child
23 advocacy centers, and elder abuse pro-
24 grams providing services to victims of
25 crime;

1 “(iii) medical care, equipment, treat-
2 ment, and related evaluations arising from
3 the victimization, including—

4 “(I) emergency medical care and
5 evaluation, nonemergency medical
6 care and evaluation, psychological and
7 psychiatric care and evaluation, and
8 other forms of medical assistance,
9 treatment, or therapy, regardless of
10 the setting in which the services are
11 delivered;

12 “(II) mental and behavioral
13 health and crisis counseling, evalua-
14 tion, and assistance, including out-
15 patient therapy, counseling services,
16 substance abuse treatment, and other
17 forms of specialized treatment, includ-
18 ing intervention and prevention serv-
19 ices;

20 “(III) prophylactic treatment to
21 prevent an individual from contracting
22 HIV/AIDS or any other sexually
23 transmitted disease or infection; and

1 “(IV) forensic medical evidence
2 collection examinations and forensic
3 interviews of victims of crime—

4 “(aa) to the extent that
5 other funding sources are un-
6 available or insufficient; and

7 “(bb) on the condition that,
8 to the extent practicable, the ex-
9 aminers and interviewers follow
10 relevant guidelines or protocols
11 issued by the State, unit of local
12 government, or Indian tribe with
13 jurisdiction over the area in
14 which the examination or inter-
15 view is conducted;

16 “(iv) legal services, legal assistance
17 services, and legal clinics (including serv-
18 ices provided by pro bono legal clinics and
19 practitioners), the need for which arises di-
20 rectly from the victimization;

21 “(v) the training and certification of
22 service animals and therapy animals;

23 “(vi) equipment for Braille or TTY/
24 TTD machines for the deaf necessary to
25 provide services to victims of crime;

1 “(vii) restorative justice opportunities
2 that allow victims of crime to meet with
3 the perpetrators if the meetings are volun-
4 tarily agreed to by the victim of crime and
5 are for therapeutic purposes; and

6 “(viii) training and related materials,
7 including books, training manuals, and
8 training videos, for staff and service pro-
9 viders to develop skills necessary to offer
10 quality services to victims of crime;

11 “(B) development or implementation of
12 training, technical assistance, or professional
13 development that improves or enhances the
14 quality of services to victims of crime, including
15 coordination between healthcare, education, and
16 justice systems;

17 “(C) transportation of victims of crime
18 to—

19 “(i) receive services; or

20 “(ii) participate in criminal justice
21 proceedings;

22 “(D) emergency legal assistance to victims
23 of crime that is directly connected to the crime;

24 “(E) supervision of direct service providers
25 and contracts for professional or specialized

1 services that are related directly to providing
2 services to victims of crime;

3 “(F) repair and replacement of essential
4 items used during the provision of services to
5 victims of crime to contribute to and maintain
6 a healthy and safe environment for the victims;

7 “(G) transitional housing for victims of
8 crime, particularly victims who have a par-
9 ticular need for such housing and cannot safely
10 return to previous housing, including travel,
11 rental assistance, security deposits, utilities,
12 and other related costs that are incidental to
13 the relocation to transitional housing;

14 “(H) relocation of victims of crime, par-
15 ticularly where necessary for the safety and
16 well-being of the victim, including reasonable
17 moving expenses, security deposits for housing,
18 rental expenses, and utility startup costs;

19 “(I) coordination of activities that facili-
20 tate the provision of direct services to victims of
21 crime;

22 “(J) multi-system, inter-agency, multi-dis-
23 ciplinary response to the needs of victims of
24 crime; and

1 “(K) administration of the program and
2 services described in this section.

3 “(2) ELIGIBILITY.—An Indian tribe seeking a
4 covered grant shall, in response to a request for pro-
5 posal, submit to the Director a written proposal for
6 a covered grant, which shall include—

7 “(A) a description of the need for services
8 and the mission and goals of the activity to be
9 carried out using the grant;

10 “(B) a description of how amounts re-
11 ceived under the grant would be used;

12 “(C) the proposed annual budget for the
13 activities for each fiscal year in which amounts
14 received under the grant may be used;

15 “(D) any qualifications, certifications, or
16 licenses that may be required for individuals in-
17 volved in administering the program;

18 “(E) a certification by the Indian tribe
19 that, under the law of that Indian tribe or the
20 law of a State to which the Act of August 15,
21 1953 (67 Stat. 588, chapter 505) (commonly
22 known as ‘Public Law 280’) applies—

23 “(i) victims of crime are entitled to
24 the rights and protections described in sec-
25 tion 3771(a) of title 18, United States

1 Code, or substantially similar rights and
2 protections; and

3 “(ii) individuals who report crimes are
4 protected by law from retribution and re-
5 taliation;

6 “(F) a certification by the Indian tribe
7 that grant funds will be used to supplement and
8 not supplant other Federal, State, local, and
9 tribal funds that are used for the purposes de-
10 scribed in paragraph (1);

11 “(G) a description of any plans or agree-
12 ments to coordinate services among Federal,
13 State, local, and tribal governments; and

14 “(H) any additional information required
15 by the Director through written guidance, after
16 consultation with Indian tribes.

17 “(3) NO MATCHING REQUIREMENT.—A recipi-
18 ent or subrecipient of a covered grant shall not be
19 required to make a matching contribution for Fed-
20 eral dollars received.

21 “(4) PROHIBITED USES OF FUNDS.—A recipi-
22 ent or subrecipient of a covered grant may not use
23 the amounts of the grant for—

24 “(A) salaries, benefits, fees, furniture,
25 equipment, and other expenses of executive di-

1 rectors, board members, and other administra-
 2 tors, except as specifically allowed under this
 3 section;

4 “(B) lobbying and administrative advocacy;
 5 and

6 “(C) fundraising activities.

7 “(5) ANNUAL REPORT.—A recipient of a cov-
 8 ered grant shall, on an annual basis, submit to the
 9 Director an itemized budget with a report describing
 10 the purpose for which the grant was used, which
 11 shall include—

12 “(A) the purpose for which grant funds
 13 were obligated or spent and the amount of
 14 funds obligated or spent by the recipient or sub-
 15 recipient for each purpose, including, on a quar-
 16 terly basis—

17 “(i) the amount of grant funds obli-
 18 gated or spent by the recipient or sub-
 19 recipient for administrative and operational
 20 costs; and

21 “(ii) the amount of grant funds obli-
 22 gated or spent by the recipient or sub-
 23 recipient for direct services;

24 “(B) the number of individuals served as a
 25 result of the grant;

1 “(C) a description, in the aggregate, of the
2 types of individuals served, including—

3 “(i) the alleged crime and injury in-
4 volved;

5 “(ii) whether the victim is an Indian;
6 and

7 “(iii) the age, sex, and tribal affili-
8 ation of the victim, if applicable; and

9 “(D) a description, in the aggregate, of the
10 general nature and location of the alleged
11 crimes involved, including—

12 “(i) whether the crime was committed
13 on Indian land;

14 “(ii) whether the alleged perpetrator
15 is an Indian;

16 “(iii) the disposition of the incident;
17 and

18 “(iv) all jurisdictions involved in any
19 disposition.

20 “(6) OBLIGATION TO REPORT FRAUD, WASTE,
21 OR ABUSE OF GRANT FUNDS.—A recipient or sub-
22 recipient of a covered grant shall immediately report
23 to the Director any finding of fraud, waste, or abuse
24 of grant funds.

1 “(d) PROTECTION OF CRIME VICTIM CONFIDEN-
2 TIALITY AND PRIVACY.—

3 “(1) ANNUAL REPORTS.—In order to ensure
4 the safety of victims of crime and immediate family
5 members of victims of crime, recipients and sub-
6 recipients of covered grants shall protect the con-
7 fidentiality and privacy of individuals receiving serv-
8 ices from the recipient or subrecipient.

9 “(2) NONDISCLOSURE.—

10 “(A) IN GENERAL.—Subject to paragraphs
11 (3) and (4), a recipient or subrecipient of a cov-
12 ered grant shall not disclose, reveal, or release
13 any personally identifying information collected
14 in connection with any service requested, used,
15 or denied through a program of the recipient or
16 subrecipient or require the release of personally
17 identifying information as a condition of eligi-
18 bility for the services provided by the recipient
19 or subrecipient—

20 “(i) regardless of whether the infor-
21 mation has been encoded, encrypted,
22 hashed, or otherwise protected; and

23 “(ii) subject to subparagraph (B) and
24 the condition that consent for release may
25 not be given by an abuser of the minor, an

1 abuser of a parent or guardian of a minor,
2 or an incapacitated individual, absent the
3 informed, written, reasonably time-limited
4 consent of—

5 “(I) the individual about whom
6 information is sought;

7 “(II) in the case of an emanci-
8 pated minor, the minor, and the par-
9 ent or guardian; or

10 “(III) in the case of legal inca-
11 pacity, a court-appointed guardian.

12 “(B) CERTAIN MINORS AND OTHER INDI-
13 VIDUALS.—If a minor or individual with a le-
14 gally appointed guardian may lawfully receive
15 services without the consent of a parent or
16 guardian, that minor or individual may consent
17 to the release of information under subpara-
18 graph (A)(ii) without the additional consent of
19 a parent or guardian.

20 “(3) RELEASE.—If the release of information
21 described in paragraph (2) is compelled by a statu-
22 tory or court mandate, a recipient or subrecipient of
23 a covered grant shall—

1 “(A) make reasonable attempts to provide
2 notice to victims of crime affected by the disclo-
3 sure of information; and

4 “(B) take steps necessary to protect the
5 privacy and safety of the individuals affected by
6 the release of the information.

7 “(4) INFORMATION SHARING.—A recipient or
8 subrecipient of a covered grant may share—

9 “(A) data in the aggregate that is not per-
10 sonally identifying information regarding serv-
11 ices to clients and demographics in order to
12 comply with Federal, State, tribal, or territorial
13 reporting, evaluation, or data collection require-
14 ments;

15 “(B) court-generated and law enforcement-
16 generated information contained in secure, gov-
17 ernmental registries for protection order en-
18 forcement purposes; and

19 “(C) law enforcement-generated and pros-
20 ecution-generated information necessary for law
21 enforcement and prosecution purposes.

22 “(5) STATUTORILY MANDATED REPORTS OF
23 ABUSE OR NEGLECT.—Nothing in this subsection
24 shall be construed to prohibit a recipient or sub-

1 recipient of a covered grant from reporting sus-
2 pected abuse or neglect of an individual.

3 “(6) CONGRESSIONAL OVERSIGHT.—

4 “(A) IN GENERAL.—Nothing in this sub-
5 section shall be construed to prohibit the Direc-
6 tor from disclosing grant activities authorized
7 by this section to the appropriate committees of
8 Congress.

9 “(B) REQUIREMENTS.—The Director shall
10 ensure that a disclosure under subparagraph
11 (A) protects confidentiality and omits person-
12 ally identifying information.

13 “(7) CONFIDENTIALITY ASSESSMENT AND AS-
14 SURANCES.—A recipient or subrecipient of a covered
15 grant shall document compliance with the confiden-
16 tiality and privacy requirements of this subsection.

17 “(e) OVERSIGHT AND ENFORCEMENT AUTHORITY.—

18 “(1) AUTHORITY.—The Director shall—

19 “(A) regularly monitor and review covered
20 grants awarded, which shall include evaluation
21 of quarterly financial reports for victim services
22 grants; and

23 “(B) conduct investigations and audits—

24 “(i) to ensure compliance with all ap-
25 plicable Federal law; and

1 “(ii) to prevent duplication and redun-
2 dancy in the awarding of covered grants.

3 “(2) PERFORMANCE MEASURES AND ENFORCE-
4 ABLE AGREEMENTS.—The Director shall ensure that
5 all covered grants are subject to performance meas-
6 ures and enforceable agreements that allow for thor-
7 ough program oversight.

8 “(3) COMPLIANCE REPORTS TO CONGRESS.—
9 For fiscal year 2017 and each fiscal year thereafter,
10 the Director shall submit to the appropriate commit-
11 tees of Congress an annual compliance report on all
12 covered grants awarded.

13 “(4) VIOLATIONS.—

14 “(A) IN GENERAL.—If, after reasonable
15 notice and opportunity for a hearing on the
16 record (subject to subparagraph (B)), the Di-
17 rector finds that a recipient or subrecipient of
18 a covered grant has failed to comply substan-
19 tially with any provision of this section or a
20 rule, regulation, guideline, or procedure issued
21 under this section, or an application submitted
22 in accordance with this section or the provisions
23 of any other applicable law, the Director shall—

24 “(i) terminate payments to the recipi-
25 ent;

1 “(ii) suspend payments to the recipi-
2 ent until the Director is satisfied that the
3 noncompliance has ended; or

4 “(iii) take any other action that the
5 Director determines appropriate.

6 “(B) SUBRECIPIENTS.—A subrecipient of
7 a covered grant may not request a hearing
8 under subparagraph (A) but may assist a re-
9 cipient in providing information during the
10 hearing process.

11 “(f) TIMELINES.—

12 “(1) NEGOTIATED RULEMAKING.—Not later
13 than 60 days after the date of enactment of this sec-
14 tion, the Director shall publish a notice in the Fed-
15 eral Register to initiate the negotiated rulemaking
16 described in section 3(b) of the Securing Urgent Re-
17 sources Vital to Indian Victim Empowerment Act,
18 which shall be completed not later than 180 days
19 after that publication.

20 “(2) REQUEST FOR PROPOSAL.—Not later than
21 60 days after the negotiated rulemaking described in
22 paragraph (1) is complete, the Director shall publish
23 a request for proposal in the Federal Register for
24 covered grants.

1 “(3) REQUIRED DISBURSAL.—Not later than
2 January 31 of each of the first 10 fiscal years begin-
3 ning after the date of enactment of this section, the
4 Director shall disburse competitive grants to Indian
5 tribes in accordance with this section.

6 “(g) AVAILABILITY OF GRANT FUNDS.—Any amount
7 awarded under a covered grant that remains unobligated
8 at the end of the fiscal year in which the grant is made
9 may be expended for the purpose for which the grant was
10 made at any time during the 5 succeeding fiscal years,
11 at the end of which period, any unobligated sums shall
12 remain available to the Director for award under this sec-
13 tion in the following fiscal year.

14 “(h) EFFECT.—Nothing in this section prohibits—
15 “(1) an Indian tribe from contracting for the
16 administration of a program or activity funded
17 under this section; or

18 “(2) multiple Indian tribes or tribal organiza-
19 tions from forming a consortium for any of the pur-
20 poses described in this section.

21 “(i) FUNDING.—

22 “(1) IN GENERAL.—The grant program estab-
23 lished under this section shall be carried out using
24 amounts made available under section 1402(d)(1).

1 “(2) ADMINISTRATIVE EXPENSES.—For each
 2 fiscal year in which a grant is made or grant funds
 3 may be obligated under this section, the Director
 4 may use not more than 4 percent of the amounts
 5 made available under this section for—

6 “(A) administration and management of
 7 covered grants; and

8 “(B) training and technical assistance.

9 “(j) TERM.—This section shall be effective for the
 10 first 10 fiscal years beginning after the date of enactment
 11 of this section.”.

12 (b) FUNDING FOR GRANTS FOR TRIBAL VICTIMS OF
 13 CRIME.—Section 1402(d) of the Victims of Crime Act of
 14 1984 (34 U.S.C. 20101(d)) is amended—

15 (1) by inserting before paragraph (2) the fol-
 16 lowing:

17 “(1) For each of the 10 fiscal years beginning
 18 after the date of enactment of the Securing Urgent
 19 Resources Vital to Indian Victim Empowerment Act,
 20 5 percent of the total amount in the Fund available
 21 for obligation during a fiscal year shall be made
 22 available to the Director to make grants under sec-
 23 tion 1404G.”;

1 (2) in paragraph (2)(A), by inserting “after
2 compliance with paragraph (1)” after “deposited in
3 the Fund”;

4 (3) in paragraph (3)(A), in the matter pre-
5 ceding clause (i), by striking “paragraph (2)” and
6 inserting “paragraphs (1) and (2)”; and

7 (4) in paragraph (5)(A), by inserting “(1),” be-
8 fore “(2)” each place that term appears.

9 **SEC. 3. REGULATIONS REGARDING INDIAN TRIBES.**

10 (a) EXISTING REGULATIONS.—Any regulation, rule,
11 or guidance promulgated by the Director of the Office for
12 Victims of Crime before the date of enactment of this Act
13 shall have no force or effect with respect to section 1404G
14 of the Victims of Crime Act of 1984, as added by section
15 2.

16 (b) NEGOTIATED RULEMAKING.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this Act, the Director of
19 the Office for Victims of Crime, in consultation with
20 the Secretary of the Interior and Indian tribes (as
21 defined in section 4 of the Indian Self-Determination
22 and Education Assistance Act (25 U.S.C. 5304))
23 and through notice and comment negotiated rule-
24 making, following the provisions of subchapter III of
25 chapter 5 of title 5, United States Code (commonly

1 known as the ‘Negotiated Rulemaking Act of 1990’),
2 shall promulgate final regulations carrying out sec-
3 tion 1404G of the Victims of Crime Act of 1984, as
4 added by section 2.

5 (2) REQUIREMENTS.—The Director of the Of-
6 fice for Victims of Crime shall ensure that—

7 (A) not fewer than 2 Indian tribes from
8 each Bureau of Indian Affairs region partici-
9 pate in the consultation; and

10 (B) small, medium, and large land-based
11 Indian tribes are represented.

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APRIL 9, 2018

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