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THE VICTIMS OF CRIME ACT OF 1984 TO SECURE URGENT RESOURCES VITAL TO INDIAN VICTIMS OF CRIME, AND FOR OTHER PURPOSES

MAY 13, 2019.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 211]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 211) to amend the Victims of Crime Act of 1984 to secure urgent resources vital to Indian victims of crime, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The Securing Urgent Resources Vital to Indian Victim Empowerment (SURVIVE) Act will improve public safety and strengthen victim resources in tribal communities by amending the *Victims of Crime Act of 1984* (VOCA) to create a grant program within the U.S. Department of Justice's Office for Victims of Crime (Office). The Director of the Office will administer grants to eligible Indian Tribes to provide needed victims' assistance.

SUMMARY OF THE BILL

This bill, S. 211, will increase access to federal resources by utilizing 5% of the annual Congressional allocation from the Crime Victims Fund (CVF) for a tribal victim services grant program. Congress created the CVF, a budget neutral fund supported by fines and penalties collected from convicted Federal offenders, in 1984 with enactment of the VOCA to support services for victims

of crime by providing funding to states to administer grants for crime victim assistance and compensation activities.

Under the current CVF system, only states and U.S. territories receive federal CVF grants to administer victim support services. As a result, Tribes must apply for sub-grants through the state they are located in, and only a small portion of CVF funding—roughly 0.7% per year in recent years—reaches Native victims. This structure, which results in disproportionately low levels of CVF funding reaching Indian country, hinders Indian Tribes in their ability to provide services to victims of crime located within their lands.

Each year, Congress sets the annual cap on the CVF so the funding allocation can increase or decrease as the legislative branch deems necessary. In FY 2018 with enactment of the *Consolidated Appropriations Act, 2018*, Congress authorized a one-time allocation for Indian Tribes to receive 3% (\$133 million) directly from the CVF to improve services for victims.¹ Congress, through the passage of the *Consolidated Appropriations Act, 2019*, set the FY 2019 CVF funding cap at \$3.353 billion. The *Consolidated Appropriations Act, 2019*, included a tribal CVF set-aside for FY 2019 and increased the level reserved for Indian Tribes to 5% (\$167.65 million).²

The grant program created by the SURVIVE Act parallels existing Federal VOCA regulations and guidance that govern critical victim assistance, services, and infrastructure in statute. Eligible services and infrastructure under the SURVIVE Act include operation of domestic violence shelters; delivery of medical care, counseling, legal assistance and services, and providing child and elder abuse prevention and treatment programs. By providing flexibility in the SURVIVE grant program, Indian Tribes will be able to boost baseline victim service delivery in Indian country and improve access to greatly needed culturally appropriate, community-specific services.

Additionally, the SURVIVE Act provides for significant confidentiality and privacy protections so that victims of crime feel safe when receiving services funded by the grant. The bill requires all grantees to submit annual reporting to the Department of Justice's Office for Victims of Crime, which administers VOCA grants to conduct regular monitoring and review of the grant program. This monitoring will also provide an opportunity for the Department of Justice and Indian Tribes to review the effectiveness of the SURVIVE grant structure and improve its effectiveness and efficiency.

The SURVIVE Act also mirrors the VOCA requirements of participation and implementation that recipients must provide services to all victims. As such, the bill ensures that SURVIVE grantees will increase access to crime victim services for everyone residing in or near remote Tribal communities, regardless of the Native or non-Native status of crime victims.

The bill, S. 211, reflects the language reported by the Committee in the 115th Congress and incorporates the following technical corrections:

¹ Consolidated Appropriations Act, 2018, Pub. L. No. 115–141 (2018).

² Consolidated Appropriations Act, 2019, Pub. L. No. 116–6 (2019).

- Edited the capitalization of “Tribe” and “Tribal” to conform to new Government Printing Office style guidance;
- Changed the initial reporting year in section 1404G(e)(3) of the Victims of Crime Act from 2017 to “the first fiscal year beginning after the date of enactment of this section” to align with the timeline for grants under that section; and
- Amended section 2 so that section 1404G(e)(4) of the Victims of Crime Act more clearly defines compliance requirements for the recipient or sub-recipient.

LEGISLATIVE HISTORY

On January 24, 2019, Senator Hoeven introduced S. 211, the *Securing Urgent Resources Vital to Indian Victim Empowerment Act* (SURVIVE Act), with original cosponsors Senators Udall, Barrasso, Cortez Masto, Daines, Murkowski, Smith, and Tester. On January 29, 2019, Senator Cantwell joined as a cosponsor of the bill. The Committee on Indian Affairs of the Senate held a duly called business meeting on January 29, 2019, to consider twelve bills, including S. 211. No amendments were filed to S. 211. The Committee passed all twelve bills, including S. 211, en bloc by voice vote and ordered the bills to be reported favorably. On February 4, 2019, Senators McSally and Warren were added as cosponsors. On February 12, 2019, Senator Merkley was added as a cosponsor. On March 4, 2019, Senator Sullivan was added as a cosponsor. On March 11, 2019, Senator Cramer was added as a cosponsor. On March 25, 2019, Senator Stabenow was added as a cosponsor.

On March 25, 2019, Representatives O’Halloran, Cole, Haaland, and Don Young introduced H.R. 1351, a companion bill to S. 211, which the House of Representatives referred to the Subcommittee on Crime, Terrorism, and Homeland Security of the Committee on the Judiciary. Since introduction, Representatives Moore, McCollum, Jayapal, Aguilar, Pocan, Kildee, Gallego, Kuster, Ocasio-Cortez, and Titus have joined the bill as cosponsors. No further action has been taken on the bill.

115th Congress. On September 27, 2017, Senator Hoeven introduced S. 1870, the SURVIVE Act. This bill was cosponsored by Senators Barrasso, Cortez Masto, Daines, Duckworth, Franken, Heitkamp, McCain, Murkowski, Murray, Stabenow, Tester, Udall, and Warren.

The Committee held a legislative hearing on S. 1870 on October 25, 2017. At the legislative hearing, officials from the Departments of the Interior and Justice testified in favor of the bill. The Committee held a duly called business meeting on December 6, 2017 to consider S. 1870. No amendments were filed to the bill. At the business meeting, the Committee ordered the bill to be reported favorably without amendment. Senator Hoeven reported S. 1870 on April 9, 2018, but the Senate took no further action on the bill during the 115th Congress.

On December 11, 2017, Representatives O’Halloran, Cole, Sinema, and Young introduced H.R. 4608, a companion bill to S. 1870, which the House of Representatives referred to the Committee on the Judiciary. The Committee subsequently referred the bill to the Subcommittee on Crime, Terrorism, and Homeland Security on January 22, 2018. Following introduction and referral, Representatives Moore, Grijalva, Issa, Pallone, Norton, McCollum,

Cramer, Pocan, Bergman, Lujan, Raskin, Jayapal, Aguilar, and Kildee joined the bill as cosponsors. However, the House took no further action on the bill during the 115th Congress.

114th Congress. Senator Barrasso introduced S. 1704, the SUR-VIVE Act, a similar bill to S. 1870 that was introduced this past Congress. That bill, S. 1704, was cosponsored by Senators Daines, Heitkamp, Hoeven, McCain, Moran, Murkowski, Schatz, Tester, and Udall. On June 10, 2015, the Committee held an oversight hearing on addressing the need for crime victim services in Indian Country. The Committee ordered S. 1704 to be reported favorably with an amendment in the nature of a substitute. No further action was taken on S. 1704.

No Member of the House of Representatives introduced a companion bill to S. 1704 during the 114th Congress.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 states that the Act may be cited as the “Securing Urgent Resources Vital to Indian Victim Empowerment Act” or “SUR-VIVE Act.”

Sec. 2. Indian victims of crime

Section 2 amends the Victims of Crime Act of 1984 (34 U.S.C. 20101 et seq.) to create a grant program for Indian Tribes within the Department of Justice’s Office for Victims of Crime (Office).

This section directs the Office to make grants to eligible Indian Tribes for a range of crime victim service activities. Funds obtained through this program may be expended over a period of five years and shall not be subject to matching requirements. Any sums that are unobligated at the end of the five-year period must be returned to the Office and made available for Indian crime victim service activities in the following fiscal year.

This section specifies that in order to be eligible to access grants under this program, an Indian tribe must submit in writing a detailed victim assistance proposal, according to listed requirements. Any Indian tribe that receives a grant under this program must also submit an annual report to the Office describing the purpose for which grant funds were used.

This section provides explicit oversight and enforcement authorities and duties to the Office, including requiring the Office to engage in regular monitoring, reviews, investigations, and audits. The Office must also ensure that all grants are subject to performance measures and enforceable agreements that allow for thorough program oversight. The Director of the Office for Victims of Crime (Director) must provide annual compliance reports on all grants awarded under this program to appropriate committees of Congress.

This section provides significant confidentiality and privacy protections for crime victims, including restrictions on reporting and sharing personally identifying information of crime victims.

This section specifies that grants awarded under this program and related administrative costs shall be supported with funds in the Crime Victims Fund (CVF). It amends Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) to require 5% of

the CVF funds made available for obligation in a fiscal year to be available to the Director for the Indian tribal grant program. The Office may not use more than 4% of these funds for grant administration and technical assistance costs.

The grant program will sunset after a period of ten years.

Sec. 3. Regulations regarding Indian Tribes

Section 3 provides that any rule, regulation, or guidance promulgated before enactment shall have no force or effect with respect to the Indian tribal grant program established under this Act.

This section requires the Director to issue implementing regulations through negotiated rulemaking, after consultation with Indian Tribes, no later than 1 year after this Act is enacted.

This section requires the Director to consult with no less than two Indian Tribes from each Bureau of Indian Affairs region, and that small, medium, and large land-based Tribes are represented during the negotiated rulemaking.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated February 8, 2019, was prepared for S. 211:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 8, 2019.

Hon. JOHN HOEVEN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 211, the SURVIVE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 211 would establish a program within the Department of Justice to make grants to Indian tribes to provide services to crime victims, including medical care, counseling, and legal services. For each of the 10 fiscal years after enactment, the bill would set aside 5 percent of the amounts available in the Crime Victims Fund for those grants (spending from that fund is considered direct spending).

CBO's baseline projects that all balances and new deposits into the Crime Victims Fund will be spent under current law (mostly for existing grant programs); thus, enacting the bill would not increase total outlays from the fund. Enacting the bill could affect the timing of outlays but those effects would not be significant in any year over the 2019–2029 period.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes S. 211 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 211.

CHANGES IN EXISTING LAW

On February 6, 2019, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

