

# *States News Service*

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## **McCain Introduces Safety to Indian Women Act**

**By States News Service**

*The following information was released by the Office of Arizona Senator John McCain:*

[WASHINGTON] – U.S. Senator John McCain, Chairman of the Senate Committee on Indian Affairs, today introduced The Restoring Safety to Indian Women Act the following is his statement submitted for the Congressional Record:

Mr. President, today I am introducing The Restoring Safety to Indian Women Act and I look forward to working with the Committee on the Judiciary to ensure that the provisions of this bill are given consideration, particularly as the reauthorization of the Violence Against Women Act moves forward. I also wish to thank Senator Byron Dorgan for co-sponsoring this legislation and for his dedication to addressing the health and welfare needs of Indian tribes.

This legislation creates a new federal criminal offense authorizing federal prosecutors to charge repeat domestic violence offenders before they seriously injure or kill someone and to use tribal court convictions for domestic violence for that purpose. It authorizes the creation of tribal criminal history databases to document these convictions and protection orders for use by all law enforcement. The bill authorizes BIA and tribal officers to make arrests for domestic violence assaults committed outside of their presence and would authorize a comprehensive study of domestic violence in Indian Country to determine its impact to Indian tribes.

The 1994 Violence Against Women Act has had a tremendous impact on raising the national awareness of domestic violence and providing communities, including Indian tribes, the resources to respond to the devastating impact of domestic violence. National studies show that one in four women are victims of domestic violence. Since 1999, the Department of Justice has issued various studies which report that Indian women experience the highest rates of domestic violence compared to all other groups in the United States. These reports state that one out of every three Indian women are victims of sexual assault; that from 1979 to 1992, homicide was the third leading cause of death of Indian females between the ages of 15 to 34 and that 75% of those deaths were committed by a family member or acquaintance. These are startling statistics that require our close examination and a better understanding of how to prevent and respond to domestic violence in Indian Country.

Domestic violence is a national problem and not one that is unique to Indian Country. Yet, due to the unique status of Indian tribes, there are obstacles faced by Indian tribal police, federal investigators, tribal and federal prosecutors and courts that impede their ability to respond to

domestic violence in Indian Country. This bill is intended to remove these obstacles at all levels and to enhance the ability of each agency to respond to acts of domestic violence when they occur.

The division of criminal jurisdiction between federal and tribal law enforcement and prosecutors working in Indian Country present challenges. For example, federal prosecutors prosecute acts of domestic violence in Indian Country using the Assault or, unfortunately, the Murder statutes in the Major Crimes Act. These statutes require the prosecutor to prove beyond a reasonable doubt that the victim was disfigured, suffered a serious risk of death or was killed before these felony charges can be filed. Meanwhile, the research has shown that perpetrators of domestic violence become increasingly more violent over time. Under the existing statutory scheme, these perpetrators may escape felony charges until they seriously injure or kill someone.

This bill would create a new federal offense aimed at the habitual domestic violence offender and allow tribal court convictions to count for purposes of federal felony prosecution when the perpetrator has at least two separate federal, state or tribal convictions for crimes involving assault, sexual abuse or a violent felony against a spouse or intimate partner. This provision is similar to many state laws that apply a felony penalty to an individual who commits multiple offenses. It will empower Indian tribal prosecutors and courts to document domestic violence cases at the local level and give federal prosecutors the ability to intervene in the cycle of violence by charging repeat offenders before they seriously injure or kill someone.

The bill would also encourage the use of existing grants authorized by the Violence Against Women Act to create tribal criminal history databases for use by Indian tribes and tribal, state and federal law enforcement agencies to document final convictions, stay away orders and orders of protection issued by tribal courts. As I understand it, no such database exists today. This database would be used solely as a law enforcement and court tracking tool. It would enable tribal, state and federal law enforcement officers to determine whether an individual is a habitual domestic violence offender and therefore subject to the felony crime described above. It also would enhance the implementation of the criminal provisions that already exist in the Violence Against Women Act.

All manner of law enforcement agencies report that responding to domestic violence disturbances are among the most dangerous situations that a police officer faces. Therefore, many states have enacted immediate arrest or removal policies that enable responding officers to diffuse these dangerous situations. Currently, the primary law enforcement authority for Indian tribes, the BIA police, are only authorized to make an arrest without a warrant for an offense committed in Indian Country if the offense is committed in the presence of the officer or the offense is a felony. This legislation would expand the authority of the BIA police, and tribal police agencies that derive their arrest authority by contract with the BIA, to make an arrest without a warrant for a domestic violence offense when the officer has reasonable grounds to believe the person arrested committed the offense. This arrest authority will enable a responding officer to diffuse the dangerous situation by arresting the perpetrator. This will go a long way toward improving public safety for both the officer and the domestic violence victim.

Finally, while the national data on the rates of violence affecting Indian women are astounding, we do not know the full extent to which Indian women residing in Indian Country are impacted by domestic violence or the impact of domestic violence on Indian tribes. For example, we know that nationally, domestic violence costs \$4.1 billion each year for direct medical and mental health services and in my own state of Arizona, last year, police received approximately 100,000 domestic violence calls, but we do not know the extent to which tribal prevention programs, law enforcement, court or medical intervention resources are similarly impacted. Therefore, this bill would require that a comprehensive study be done on the scope of the domestic violence problem in Indian Country.

I look forward to working with my colleagues on the Indian Affairs Committee and the Judiciary Committee to ensure that these statistics become a record of the past. I urge my colleagues to support this important legislation. I ask unanimous consent that my statement and the full text of the bill be printed in the record.

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