

The Violence Against Women Act, 1994-2013

The Violence Against Women Act (VAWA)¹, originally sponsored by Senators Biden and Hatch, was enacted in 1994 as a result of national grassroots organizing by battered women and advocates. These efforts included Indian women who organized to engage tribal, state, and federal systems to hold governments accountable to address the nationwide statistics, crisis, and seriousness of sexual assault, stalking and domestic violence committed against women. The Act's passage marked the federal government's acknowledgment of the extent and pervasiveness of violence against women and the need for more dedicated services for victims and an increased response from the justice system to these crimes. Over the last two decades, VAWA has grown into an historic Act reshaping the laws, policies, and responses of federal, tribal, and state governments.

VAWA and American Indian Tribes and Alaska Native Villages

The VAWA has been reauthorized three times: 2000, 2005, and 2013. The current VAWA sunsets and must be reauthorized by the end of 2018. The growth of the national grassroots movement has seen important advancements over the last 20 years with each reauthorization of VAWA, including the following highlights:

- 1994—the first dedicated funding stream of 4% of the available funding for American Indians and Alaska Natives tribes with a statutory purpose of “developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.”
- 2000—the increase of the tribal dedicated funding stream to 10%, provided increased clarity regarding issuance and enforcement of tribal court protection orders, and created a tribal coalition grant program.
- 2005—the inclusion of the Safety for Indian Women Title, recognizing the unique legal relationship of the United States to Indian tribes and women. Congress explicitly provided that the title was “to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against women.” It authorized the consolidation of VAWA tribal grants to create a single VAWA tribal grant program, with the added creation of an OVW tribal unit and Deputy Director for Tribal Affairs, and mandated an annual tribal-federal VAWA consultation.² VAWA 2005 also added dating violence under the VAWA as a purpose area.
- 2013—the historic amendment affirmed tribal inherent authority over non-Indians committing certain acts of domestic violence or dating violence or violation of certain protection orders in the Indian country of the tribe, provided increased funding to the tribal coalitions program, and added sex trafficking for Indian tribes as a purpose area.

¹ Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322) as amended by the Victims of Trafficking Protection Act of 2000 (Pub. L. 106-386), as amended by the Violence Against Women and Department of Justice Reauthorization Act of 2005 (H.R. 3402) as amended by Violence Against Women Reauthorization Act of 2013 (Pub. L. No. 113-114, 127 Stat. 54.).

² This mandate applies to the Departments of Justice, Interior, and Health and Human Services under the Safety for Indian Women Title of VAWA 2005 and 2013.

The Congressional purposes for the enactment of the Safety for Indian Women Title provides an overview of the goals Congress intended be accomplished by Title IX of the VAWA 2005. The three purpose areas also provide clarity for the implementation of the Act. It links the decrease of violence against Indian women to the increased capacity of Indian tribes to exercise their sovereign authority to protect Indian women and hold perpetrators accountable for their crimes.

VAWA 2005. §902. Purposes.

The purposes of this title are:

- (1) to decrease the incidence of violent crimes against Indian women;
- (2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women; and
- (3) to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

Safety of American Indian Women and Sovereignty of American Indian Tribes

The VAWA amendments to federal law highlight an increasing awareness of the need to address violence against Native women and the critically important role of Indian nations in the full implementation of VAWA. The statistics among Native populations represent the ongoing effect that colonization has had on Indian people and nations. The federal Indian legal framework is devastatingly complex and one that Native victims must confront and navigate daily for safety and protection. However, resources are scarce, and culturally appropriate resources are practically non-existent. Many barriers and questions present themselves concerning tribal jurisdiction, law enforcement availability, lack of culturally appropriate services and victim advocates, and availability of emergency shelters and rape crisis services. In this context, while much remains to be done, VAWA is life-saving legislation that has over twenty years made steady gains in addressing the safety of Native women by operating within a government-to-government relationship with Indian tribes respectful of tribal sovereignty as demonstrated through the process of consultation for each reauthorization.

More than 4 in 5 American Indian and Alaska Native women (84.3%) have experienced violence in their lifetime, including:

- 56.1% who have experienced sexual violence
- 55.5% who have experienced physical violence by an intimate partner
- 48.4% who have experienced stalking
- 66.4% who have experienced psychological aggression by an intimate partner (NIJ, 2016).

For an in-depth overview, "Safety for Native Women: VAWA and American Indian Tribes" is available at niwrc.org.