

AMERICAN BAR ASSOCIATION

SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE

NATIONAL NATIVE AMERICAN BAR ASSOCIATION

JUDICIAL DIVISION

CRIMINAL JUSTICE SECTION

FAMILY LAW SECTION

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

RESOLVED, That the American Bar Association urges Congress to strengthen tribal jurisdiction to address crimes of domestic violence, dating violence, sexual assault, stalking, and sex trafficking gender-based violence committed on tribal lands that are committed by non-Indian perpetrators who have specific ties to the tribe, while ensuring that the following due process rights are provided: (1) rights of defendants at least equivalent to the rights set forth in section 234(c) of the Tribal Law and Order Act, Public Law 111-211; and (2) current federal habeas corpus review, and (3) tribal court sentencing limitations; in the reauthorization of the Violence Against Women Act

FURTHER RESOLVED, That the American Bar Association urges Congress to enact legislation that strengthens tribal jurisdiction to hold all perpetrators of address crimes of gender-based violence committed on tribal lands accountable in the reauthorization of the Violence Against Women Act.

REPORT

Background

The American Bar Association has a long history of responding to the epidemic of intimate partner violence by striving to promote access to justice and safety for its victims.¹ In celebration of the initial passage of the Violence Against Women Act (VAWA) in 1994, ABA President Roberta Cooper Ramo created the Commission on Domestic Violence (now the Commission on Domestic & Sexual Violence). However, as early as 1978, the ABA adopted policy supporting efforts to combat the incidence, causes and effects of family violence and the implementation of programs to protect the victims of family violence. In nearly every year since, the ABA has adopted policies that support victims and strive to strengthen legal protections on their behalf. VAWA reauthorization has been a legislative priority for the ABA in 2000, 2005, and again this year, when it was one of three ABA Day priorities.

When it was authorized in 1994, the Violence Against Women Act represented the first time the federal government adopted a comprehensive approach to fighting violence against women. For over 18 years, VAWA has provided life-saving assistance to hundreds of thousands of women, men, and children who are victims of domestic violence, dating violence, sexual assault and stalking.

S.1925 is the bipartisan Violence Against Women Reauthorization Act that passed the Senate on April 26, 2012, by a 68-31 vote. Among many other provisions (including, for example, a recognition of barriers faced by victims due to their sexual orientation or gender identity² or due to their immigration status³) it incorporates most of S. 1763, the SAVE Native Women Act, which is pending in the Senate Committee on Indian Affairs. Both S.1925 and S.1763 include provisions acknowledging Indian tribes' authority to exercise criminal jurisdiction over non-Indian perpetrators of domestic and dating violence.

In a November 23, 2011 letter⁴, the ABA expressed strong support for the tribal provisions of S.1763/S.1925⁵ and effectively laid out the reasons why they are necessary:

¹ The ABA has a long history of supporting measures to strengthen protection and assistance for victims of gender-based violence, and of supporting VAWA specifically. See ABA Section of Criminal Justice, *Recommendation Volume 103* (Feb. 1978) (supporting efforts to combat family violence); ABA Commission on Domestic Violence and Commission on Immigration, *Recommendation, Report No. 109* (Aug. 2008) (urging federal, state, and tribal governments to strengthen protection and assistance for victims of gender-based violence); ABA *Recommendation, Report No. 115* (Feb. 2010) (urging Congress to re-authorize and fully fund VAWA).

² The ABA also has a long history supporting protections for LGBTQ victims of gender-based violence, including support for VAWA-specific protections. See e.g. ABA *Recommendation, Report No. 8*, (Feb. 1989) (urging the federal and local governments to enact legislation to prohibit discrimination on the basis of sexual orientation in public accommodations); ABA *Recommendation, Report No. 115* (Feb. 2010) (urging Congress to re-authorize and fully fund VAWA, expressly including LGBT victims);

³ The ABA has a long history of supporting protections for immigrant victims of gender-based violence, including support for VAWA-specific protections. See e.g. ABA *Recommendation, Report No. 107g* (Feb. 2006) (urging Congress to enact U Visas for victims of violent crimes, including domestic violence and sexual assault); ABA *Recommendation, Report No. 110c* (Aug. 2007) (urging Congress to enact T Visas for victims of human trafficking).

⁴ Letter to Honorable Daniel Akaka and Honorable John Barrasso, Chairman and Ranking Member of the Senate Committee on Indian Affairs from Thomas Susman, Director of the Governmental Affairs Office of the ABA (Nov. 23, 2011) (expressing support for S. 1763, the (SAVE) Native Women Act) available at http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2011nov23_saves_1.authcheckdam.pdf.

In particular, the ABA wishes to express strong support for S. 1763, the Stand Against Violence and Empower Native Women (SAVE) Act.

According to a study by the U.S. Department of Justice, two-fifths of Indian women will experience domestic violence, and one-third will be sexually assaulted in their lifetime. Four out of five perpetrators of these crimes are non-Indian. The SAVE Act works to ensure that victims have access to support services and provides tribes with adequate resources to prosecute those who are committing these violent crimes. The Act also provides Native communities with the resources necessary to develop policy that addresses the needs of victims, as well as to study and respond to the sex trafficking of Indian women.

The ABA strongly supports legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence, including American Indian and Alaska Native women. In August 2008, the ABA adopted policy urging Congress to enact and fund legislation that: (1) supports funding for legal assistance for victims of gender-based violence; (2) supports funding to provide training and education about gender-based violence and the needs of victims; (3) supports efforts to foster a multidisciplinary and community approach to serving victims and ending gender-based violence; and (4) supports efforts to ensure that perpetrators of gender-based violence are held accountable. And in February 2010, the ABA adopted a resolution urging reauthorization of the Violence Against Women Act (and similar legislation), specifically highlighting the need for legislation that “provides services, protection, and justice for underserved and vulnerable victims of violence, including children and youth who are victims or are witnesses to family violence, and victims who are disabled, elderly, immigrant, trafficked, LGBT and/or Indian.”

The ABA believes that passage of legislation that addresses these issues is an essential step in providing Indian tribes with the resources necessary to address domestic violence, sexual violence, and sex trafficking, and to keeping Native victims and their families safe.

While, as the letter notes, the ABA has enacted policies supporting “offender accountability”⁶ and “victims who are Indian,”⁷ the ABA has not yet enacted specific policy on the need for limited tribal court criminal jurisdiction over non-Indian defendants in order to ensure that perpetrators of intimate partner violence in Indian country are held accountable.

⁵ Although the letter refers to S.1763, the Stand Against Violence and Empower Native Women (SAVE) Act, that bill has now been completely incorporated into Title IX of S.1925.

⁶ ABA Commission on Domestic Violence, Commission on Immigration, *Recommendation, Report No.109* (Aug. 2008) (urging federal, state, local, territorial, and tribal governments to strengthen protection and assistance for victims of gender-based violence, including efforts to “ensure that perpetrators of gender-based violence are held accountable”).

⁷ ABA *Recommendation, Report No. 115* (Feb. 2010) (urging Congress to re-authorize and fully fund VAWA to provide “services, protection, and justice for underserved and vulnerable victims of violence, including children and youth who are victims or are witnesses to family violence, and victims who are disabled, elderly, immigrant, trafficked, LGBT and/or Indian”).

Consequently, this resolution is needed in order to clarify that the ABA supports legislation such as S.1925/S.1763 that recognizes tribal jurisdiction to address crimes on tribal lands and hold all perpetrators accountable—with adequate due process protections for defendants charged under these enhanced jurisdictional provisions, such as the due process protections included in S.1925 and in the Tribal Law and Order Act of 2010 (Public Law 111-211; 25 U.S.C. 2801 et seq.).

Critical Need

Native Americans are victims of violent crime at rates more than double those of any other demographic group in the United States.⁸ In particular, violence against Native women has reached epidemic proportions. Native women are battered, raped, and stalked at far greater rates than any other population of women in the United States: 34% of Native women will be raped in their lifetimes and 39% will be the victim of domestic violence.⁹ On some reservations, Native women are murdered at more than ten times the national average.¹⁰ This statistical reality leaves young Native women wondering not *if* they will be beaten or raped, but *when*.

This public safety crisis in Indian country is the result of an inordinately complex jurisdictional scheme, decades of underfunding for tribal criminal justice systems, and a centuries-old failure by the federal government to fulfill its public safety obligations on Indian lands. Criminal jurisdiction in Indian country is divided among federal, tribal, and state governments, depending on the location of the crime, the type of crime, the race of the perpetrator, and the race of the victim.¹¹ Each criminal investigation therefore involves a cumbersome procedure to establish who has jurisdiction over the case. This complexity has resulted in significant impediments to law enforcement in Indian country.¹² Moreover, while concurrent jurisdiction between tribes, the federal and state government is permissible in certain circumstances, tribal courts are without any recourse against non-Indian offenders in Indian country.¹³

The practical effect is that tribal law enforcement officers are usually the first responders to crime scenes on Indian lands, but their limited jurisdictional authority often prevents them from arresting the alleged perpetrators. Instead, their only option is to hold individuals until local, state, or federal law enforcement officers arrive, which is a difficult task—and not always successful—given the remoteness of Indian reservations and the poor coordination between government bodies. As the International Association of Police Chiefs noted, “[g]iven the jurisdictional morass that currently describes Indian country, it is not uncommon for non-Indian offenders to commit crimes in Indian country knowing that there will be little, if any, retribution

⁸ Steven W. Perry, *American Indians and Crime, A BJS Statistical Profile, 1992-2002*, U.S. Department of Justice, Bureau of Justice Statistics (2004), available at <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=386>.

⁹ Congressional findings in the Tribal Law and Order Act of 2010, Pub. L. No. 111-211, §202(a)(5) (2010).

¹⁰ NIJ Funded Analysis of Death Certificates.

¹¹ The General Crimes Act, 18 U.S.C. §1152, the Assimilative Crimes Act, 18 U.S.C. § 1, the Major Crimes Act, 18 U.S.C. §1153 (creating federal criminal jurisdiction that is exclusive of the states). *But see* Public Law 83-280, 18 U.S.C. § 1162, delegating six states jurisdiction over most crimes throughout most of the Indian country within their state borders.

¹² *See* Robert N. Clinton, *Criminal Jurisdiction Over Indian Lands: A Journey Through a Jurisdictional Maze*, 18 ARIZ. L. REV. 503, 508-13 (1976).

¹³ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) (holding that tribes lack criminal jurisdiction over non-Indian defendants).

for their crimes.”¹⁴ “The result is cultivated scorn for tribal authority and continued abuse of victims.”¹⁵

Compounding the danger, those empowered to act have often failed to do so. Currently, the federal government has the sole authority for investigation and prosecution of violent crimes and other felonies committed on many Indian reservations.¹⁶ Yet, according to a 2010 GAO Study, U.S. Attorneys declined to prosecute nearly 52% of violent crimes that occur in Indian country; and 67% of the cases declined were sexual abuse-related matters.¹⁷

The prime example of this is the Indian woman who is raped or beaten by her non-Indian husband on tribal land and has nowhere to turn for protection under existing law: tribal law enforcement has no authority to intervene because the perpetrator is a non-Indian¹⁸; the State has no authority to intervene because the victim is an Indian¹⁹; and the Federal Government—the body with exclusive jurisdiction—has neither the will nor the resources to intervene in domestic violence cases.

In 2006 and 2007, U.S. attorneys prosecuted fewer than 23 misdemeanor crimes annually on all Indian lands, while in 2006 alone, one small reservation in Arizona faced more than 450 domestic violence cases – one act of domestic abuse every 19 hours. Furthermore, it is not at all uncommon for Native women to be involved in intimate partner relationships with non-Native men. Fifty-six percent of American Indian women have non-Indian husbands.²⁰ Non-Indians commit 88% of all violent crimes against Native women.²¹ In cases of domestic or dating violence, or sexual assault or trafficking in such relationships, arrest and prosecution of a non-Native perpetrator either never occurs, or is lost within the “jurisdictional maze.”

U.S. Department of Justice Support

The U.S. Department of Justice and the Obama Administration fully support the tribal amendments in S.1925. In July 2011, after much consultation and collaboration with tribal leaders, the Department of Justice (DOJ) released a comprehensive legislative proposal that sought to address the epidemic of domestic violence against American Indian and Alaska Native

¹⁴ *Improving Safety in Indian Country, Executive Summary*, International Association of Police Chiefs Summit 2001, 7 (Oct. 2001), available at <http://www.theiacp.org/LinkClick.aspx?fileticket=oxUoc9IWADM%3D&tabid=304>.

¹⁵ *Id.* at 8.

¹⁶ The General Crimes Act, 18 U.S.C. §1152; the Assimilative Crimes Act, 18 U.S.C. § 1; the Major Crimes Act, 18 U.S.C. §1153 (providing federal criminal jurisdiction over ten enumerated major crimes committed in Indian country that is exclusive of the states); *Oliphant*, 435 U.S. 191 (holding that tribes lack criminal jurisdiction over non-Indian defendants). *But see* Public Law 83-280, 18 U.S.C. § 1162 (delegating jurisdiction to six states over most crimes throughout most of the Indian country within their state borders).

¹⁷ U.S. Government Accountability Office, *U.S. Department of Justice Declinations of Indian Country Criminal Matters*, Report No. GAO-11-167R, 3 (2010).

¹⁸ *Oliphant*, 435 U.S. 191.

¹⁹ *See United States v. John*, 437 U.S. 634 (1978) (holding that Major Crimes Act jurisdiction preempts states); COHEN’S HANDBOOK OF FEDERAL INDIAN LAW, 754, (Neil Jessup Newton ed., LexisNexis 2005) (“The Major Crimes Act and the Indian Country Crimes Act create federal criminal jurisdiction that is exclusive of the states”).

²⁰ U.S. Census Bureau, *Census 2000*

²¹ Tjaden, Patricia, and Nancy Thoennes, *Full Report of the Prevalence, Incidents, and Consequences of Violence Against Women, Findings from the Violence Against Women Survey*, Washington, DC; National Institute of Justice (November 2000).

women. The DOJ proposal addressed three major gaps in the current system that leave Native women vulnerable to violent crimes of domestic violence and sexual assault: tribal criminal jurisdiction, tribal civil jurisdiction, and federal assault statutes. All of the major tenets of DOJ's legislative proposal are included in S.1925 and have the Obama Administration's full support.²²

ABA Support

The ABA has a long history of supporting legislation (1) addressing domestic, sexual and stalking violence²³ and (2) supporting tribal sovereignty and providing tribes with every available resource and tool needed to improve justice in Indian country²⁴ and hold perpetrators accountable. As the "third sovereign" administering justice in the United States, tribal courts preside over the same criminal issues as states and federal courts.²⁵ The ABA has specifically supported tribal justice systems, which the ABA identified as "the primary and most appropriate institutions for maintaining order in tribal communities."²⁶ In an August 2008 resolution, the ABA urged Congress "to support quality and accessible justice by ensuring adequate, stable, long-term funding for tribal justice systems"²⁷. In 2010, the ABA went one step further in providing vigorous support²⁸ for the enactment of the Tribal Law and Order Act²⁹ as set forth in the August 3, 2010 statement of then-ABA President Carolyn B. Lamm: "There are numerous ways the [Tribal Law and Order Act] will work against gender-based violence, including the promise of better funding, community-based projects and efforts that better hold the perpetrators accountable."³⁰

²² Statement of Associate Attorney General Thomas J. Perrelli before the Senate Committee on Indian Affairs (Nov. 10, 2011), at <http://www.justice.gov/iso/opa/asg/speeches/2011/asg-speech-111110.html>.

²³ See ABA *Recommendation, Report No. 115* (Feb. 2010) (urging Congress to re-authorize and fully fund VAWA); ABA Commission on Domestic Violence and Commission on Immigration, *Recommendation, Report No. 109* (Aug. 2008) (urging federal, state, and tribal governments to strengthen protection and assistance for victims of gender-based violence); ABA Section of Criminal Justice, *Recommendation, Volume 103* (Feb. 1978) (supporting efforts to combat family violence).

²⁴ See generally ABA, *Recommendation, Report No. 108B* (Feb. 2006) (supporting federal recognition for a native Hawaiian governing entity); ABA Section of Individual Rights and Responsibilities, *Recommendation, Report No. 103C* (Feb. 2004) (urging Congress to address the inadequacy of health care for many American Indians and Alaska Natives); ABA Section of Environment, Energy, and Resources, *Recommendation, Report No. 111* (Aug. 2001) (endorsing the use of settlement to resolve Indian reserved water rights claims); ABA Commission on Homelessness and Poverty Steering Committee on Unmet Legal Needs of Children, *Recommendation, Report No. 105C* (Aug. 2001) (urging equitable access for foster care and adoption services for Indian children under tribal court jurisdiction); ABA Section of Individual Rights and Responsibilities, *Recommendation, Report No. 117B* (Aug. 1991) (concerning disproportionate effects of general federal death penalty legislation on Native Americans); ABA Section of Individual Rights and Responsibilities, *Recommendation, Report No. 106A* (Feb. 1990) (supporting the American Indian Religious Freedom Act); ABA Section of Individual Rights and Responsibilities, *Recommendation, Report* (Feb. 1980) (urging strict adherence to Indian treaty obligations).

²⁵ Sandra Day O'Connor, *Lessons from the Third Sovereign: Indian Tribal Courts*, 33 TULSA L.J. 1 (1997). While tribal courts are restricted from holding non-Indians accountable, tribes retain criminal jurisdiction over Indian offenders.

²⁶ ABA Section of Individual Rights and Responsibilities, Coalition for Justice, and National Native American Bar Association, *Recommendation, Report No. 117A*, 4 (Aug. 2008).

²⁷ Id.

²⁸ See Letter to House of Representatives, from Thomas Susman, Director of the Governmental Affairs Office of the ABA (July 20, 2010) (urging all House Representatives to vote YES for Senate Amendments to H.R. 725).

²⁹ Public Law 111-211 (25 U.S.C. 2801 et seq.).

³⁰ Statement by Carolyn B. Lamm, President of the American Bar Association (Aug. 3, 2010) (urging appropriation of funds for the Tribal Law and Order Act as a tool against gender-based violence).

Limited Application and Extensive Due Process Protections

It is important to note that the special tribal criminal jurisdiction over non-Indian defendants provided under Title IX of S.1925 (“special domestic violence criminal jurisdiction”) (1) would only have limited application due to a series of threshold jurisdictional limitations, and (2) requires extensive due process protections whenever this limited provision is utilized. It is anticipated that a limited number of tribes would be likely to elect to exercise this “special domestic violence criminal jurisdiction” due to the extensive due process protections that would be required under S.1925 in order to exercise it.

S.1925 provides that this “special domestic violence criminal jurisdiction” would only apply to crimes of domestic violence or dating violence committed in Indian country where the defendant is a spouse or established intimate partner of a tribal member. Moreover, the prosecuting tribe has the burden of proving that any non-Indian defendant prosecuted has adequate ties to the tribe, such as residency, employment, or is the spouse/intimate partner/dating partner of a tribal member or residing Indian. Additionally, this “special domestic violence criminal jurisdiction” would not apply to non-Indian on non-Indian crimes.

S.1925 provides that any “participating tribe” electing to exercise this “special domestic violence criminal jurisdiction” would be required to provide extensive due process protections to any defendant prosecuted under it. Defendants would be entitled to the full panoply of constitutional protections, including due process rights and an indigent defendant’s right to appointed counsel (at the expense of the tribe).³¹ This also includes the right to petition a federal court for habeas corpus to challenge any conviction and to stay detention prior to review. Additionally, any non-Indian defendant prosecuted under these new provisions has the right to a trial by jury drawn from sources that do not systematically exclude any distinctive group in the community, including non-Indians. Finally, it provides “[a]ll other rights whose protection is necessary under the Constitution of the United States in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise special domestic violence criminal jurisdiction over the defendant.”

Clarifying Full Tribal Civil Jurisdiction to Issue Protection Orders

S.1925 also fulfills the intent of VAWA 2005 regarding tribal *civil* jurisdiction to issue protection orders. VAWA 2005 intended for tribes to have full civil authority to issue and enforce protection orders against Indians and non-Indians alike.³² Unfortunately, at least one federal court has suggested that tribes lack civil jurisdiction to issue and enforce protection orders against non-Indians who reside on tribal lands.³³ That ruling undermines the ability of tribal courts to protect victims. Section 905 of S.1925 carries out the congressional intent of VAWA 2005 by clarifying that every tribe has full civil jurisdiction to issue and enforce

³¹ S.1925 also adopts the same due process rights as Congress adopted in 2010 when it passed the Tribal Law & Order Act of 2010, specifically Section 202(c) which requires: (1) right to defense counsel that is at least equal to that guaranteed by the Constitution; (2) counsel for indigent defendants that is licensed to practice law at the expense of the tribe; (3) presiding judge has sufficient legal training and is licensed to practice law; (4) laws are made publicly available; and (5) record of criminal proceeding.

³² See 18 U.S.C. §2265.

³³ *Martinez v. Martinez*, No. C08-5503 FDB (D. Wash. 2008).

protection orders against all persons regarding matters arising on tribal lands, and that such orders are entitled to full faith and credit by non-tribal jurisdictions.

Conclusion

By adopting this Resolution, the ABA will take a limited, but vital step – consistent with long standing ABA policy addressing both gender-based and tribal sovereignty – that will underscore the ABA’s commitment to supporting the rights of Native women, the importance of tribal courts, and to holding all perpetrators accountable.

Respectfully Submitted,

Kay H. Hodge, Chair
Section of Individual Rights and Responsibilities

Debbie Segal, Chair
Commission on Domestic and Sexual Violence

August 2012

EXECUTIVE SUMMARY

Summary of the resolution

The Recommendation supports the enactment of legislation to strengthen tribal jurisdiction to address crimes committed on tribal lands, generally, and to strengthen tribal jurisdiction over the crimes of domestic violence, dating violence, sexual violence, stalking, and human sex trafficking.

Summary of the issue which the resolution addresses

Crime is at epidemic levels on tribal lands. The federal government has sole responsibility to enforce laws on tribal lands and the federal response is not sufficient. Tribal courts are best able to properly adjudicate criminal and civil matters relating to crimes committed on their lands, and the federal government should ensure that these courts are able to do so.

Explanation of how the proposed policy position will address the issue.

The proposed policy position will allow the ABA to act in support of authorization and funding of legislation, which would extend tribal criminal jurisdiction over crimes committed on tribal lands allowing for increased enforcement of applicable laws.

Summary of any minority views or opposition which have been identified.

None to date.

GENERAL INFORMATION FORM

Submitting Entity: Section on Individual Rights and Responsibilities
Commission on Domestic and Sexual Violence

Submitted By: Kay H. Hodge, Chair
Section of Individual Rights & Responsibilities

Debbie Segal, Chair
Commission on Domestic and Sexual Violence

1. Summary of Recommendation(s).

The Recommendation supports legislation strengthening tribal court jurisdiction to address crimes of domestic violence, dating violence, sexual assault, stalking, and sex trafficking committed on tribal lands in the reauthorization of the Violence Against Women Act.

2. Approval by Submitting Entity.

The Executive Committee of the Section of Individual Rights and Responsibilities approved the filing of this Report with Recommendation on June 19, 2012, during its monthly conference call.

The Commissioners of the Commission on Domestic and Sexual Violence approved co-sponsorship of this Report with Recommendation on July 18, 2012 by e-mail vote.

3. Has this or a similar recommendation been submitted to the ABA House of Delegates or Board of Governors previously?

Yes.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

In February 2010, the ABA adopted a resolution urging Congress to re-authorize and fully fund the Violence Against Women Act and similar legislation that, among other things, provides services, protection, and justice for underserved and vulnerable victims of violence, including children and youth who are victims or are witness to family violence, and victims who are disabled, elderly, immigrant, trafficked, LGBT and/or Indian;

In August 2008, the ABA adopted policy urging federal, state, local, territorial, and tribal governments to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and abroad.

In August 2007, the ABA adopted the black letter Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases. These standards include discussion of how to serve vulnerable populations, including Native Americans.

5. What urgency exists which requires action at this meeting of the House?

Legislation has been introduced in both houses of the Congress during the current term, and is pending approval in the House. This resolution would allow the Association to in debate regarding tribal jurisdictional issues.

6. Status of Legislation. (If applicable.)

Senate Bill 1925 was approved April 26, 2012.

House of Representatives Bill 4970 was approved May 16, 2012

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

If adopted, the policy would be used to encourage Congress to enact legislation that strengthens tribal jurisdiction to hold all perpetrators of gender-based violence committed on tribal lands accountable.

8. Cost to the Association. (Both direct and indirect costs.)

The recommendation's adoption would not result in direct cost to the Association.

9. Disclosure of Interest. (If applicable.)

There are no known conflicts of interest.

10. Referrals.

ABA Judicial Division, Tribal Court Council
ABA Criminal Justice Section
ABA Diversity Center
ABA Commission on Women in the Profession
National Native American Bar Association

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