

**Calendar No. 409**

106TH CONGRESS  
1ST SESSION

**S. 1508**

**[Report No. 106-219]**

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**A BILL**

To provide technical and legal assistance to tribal  
justice systems and members of Indian tribes,  
and for other purposes.

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NOVEMBER 8, 1999

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

AUGUST 5, 1999

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

NOVEMBER 8, 1999

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To provide technical and legal assistance to tribal justice systems and members of Indian tribes, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Tribal Justice  
5 Technical and Legal Assistance Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds and declares that—

3 (1) there is a government-to-government rela-  
4 tionship between the United States and Indian  
5 tribes;

6 (2) Indian tribes are sovereign entities and are  
7 responsible for exercising governmental authority  
8 over Indian lands;

9 (3) the rate of violent crime committed in In-  
10 dian country is approximately twice the rate of vio-  
11 lent crime committed in the United States as a  
12 whole;

13 (4) in any community, a high rate of violent  
14 crime is a major obstacle to investment, job creation  
15 and economic growth;

16 (5) tribal justice systems are an essential part  
17 of tribal governments and serve as important forums  
18 for ensuring the health and safety and the political  
19 integrity of tribal governments;

20 (6) Congress and the Federal courts have re-  
21 peatedly recognized tribal justice systems as the  
22 most appropriate forums for the adjudication of dis-  
23 putes affecting personal and property rights on Na-  
24 tive lands;

25 (7) enhancing tribal court systems and improv-  
26 ing access to those systems serves the dual Federal

1 goals of tribal political self-determination and eco-  
2 nomic self-sufficiency;

3 (8) there is both inadequate funding and an in-  
4 adequate coordinating mechanism to meet the tech-  
5 nical and legal assistance needs of tribal justice sys-  
6 tems and this lack of adequate technical and legal  
7 assistance funding impairs their operation;

8 (9) tribal court membership organizations have  
9 served a critical role in providing training and tech-  
10 nical assistance for development and enhancement of  
11 tribal justice systems;

12 (10) Indian legal services programs, as funded  
13 partially through the Legal Services Corporation,  
14 have an established record of providing cost effective  
15 legal assistance to Indian people in tribal court fo-  
16 rums, and also contribute significantly to the devel-  
17 opment of tribal courts and tribal jurisprudence; and

18 (11) the provision of adequate technical assist-  
19 ance to tribal courts and legal assistance to both in-  
20 dividuals and tribal courts is an essential element in  
21 the development of strong tribal court systems.

22 **SEC. 3. PURPOSES.**

23 The purposes of this Act are as follows:

24 (1) to carry out the responsibility of the United  
25 States to Indian tribes and members of Indian tribes

1 by ensuring access to quality technical and legal as-  
2 sistance.

3 (2) To strengthen and improve the capacity of  
4 tribal court systems that address civil and criminal  
5 causes of action under the jurisdiction of Indian  
6 tribes.

7 (3) To strengthen tribal governments and the  
8 economies of Indian tribes through the enhancement  
9 and, where appropriate, development of tribal court  
10 systems for the administration of justice in Indian  
11 country by providing technical and legal assistance  
12 services.

13 (4) To encourage collaborative efforts between  
14 national or regional membership organizations and  
15 associations whose membership consists of judicial  
16 system personnel within tribal justice systems; non-  
17 profit entities which provide legal assistance services  
18 for Indian tribes; members of Indian tribes; and/or  
19 tribal justice systems.

20 (5) To assist in the development of tribal judi-  
21 cial systems by supplementing prior Congressional  
22 efforts such as the Indian Tribal Justice Act (Public  
23 Law 103-176).

24 **SEC. 4. DEFINITIONS.**

25 For purposes of this Act:

1           (1) ATTORNEY GENERAL.—The term “Attorney  
2           General” means the Attorney General of the United  
3           States.

4           (2) INDIAN LANDS.—The term “Indian lands”  
5           shall include lands within the definition of “Indian  
6           country”, as defined in 18 U.S.C. 1151; or “Indian  
7           reservations”, as defined in section 3(d) of the In-  
8           dian Financing Act of 1974, 25 U.S.C. 1452(d), or  
9           section 4(10) of the Indian Child Welfare Act, 25  
10          U.S.C. 1903(10). For purposes of the preceding sen-  
11          tence, such section 3(d) of the Indian Financing Act  
12          shall be applied by treating the term “former Indian  
13          reservations in Oklahoma” as including only lands  
14          which are within the jurisdictional area of an Okla-  
15          homa Indian Tribe (as determined by the Secretary  
16          of Interior) and are recognized by such Secretary as  
17          eligible for trust land status under 25 CFR part 151  
18          (as in effect on the date of enactment of this sen-  
19          tence).

20          (3) INDIAN TRIBE.—The term “Indian tribe”  
21          means any Indian tribe, band, nation, pueblo, or  
22          other organized group or community, including any  
23          Alaska Native entity, which administers justice or  
24          plans to administer justice under its inherent au-  
25          thority or the authority of the United States and

1 which is recognized as eligible for the special pro-  
2 grams and services provided by the United States  
3 to Indian tribes because of their status as Indians.

4 (4) JUDICIAL PERSONNEL.—The term “judicial  
5 personnel” means any judge, magistrate, court coun-  
6 selor, court clerk, court administrator, bailiff, proba-  
7 tion officer, officer of the court, dispute resolution  
8 facilitator, or other official, employee, or volunteer  
9 within the tribal judicial system.

10 (5) NON-PROFIT ENTITIES.—The term “non-  
11 profit entity” or “non-profit entities” has the mean-  
12 ing given that term in section 501(c)(3) of the Inter-  
13 nal Revenue Code.

14 (6) OFFICE OF TRIBAL JUSTICE.—The term  
15 “Office of Tribal Justice” means the Office of Tribal  
16 Justice in the United States Department of Justice.

17 (7) TRIBAL JUSTICE SYSTEM.—The term “trib-  
18 al court”, “tribal court system”, or “tribal justice  
19 system” means the entire judicial branch, and em-  
20 ployees thereof, of an Indian tribe, including, but  
21 not limited to, traditional methods and fora for dis-  
22 pute resolution, trial courts, appellate courts, includ-  
23 ing inter-tribal appellate courts, alternative dispute  
24 resolution systems, and circuit rider systems, estab-

1 lished by inherent tribunal authority whether or not  
 2 they constitute a court of record.

3 **TITLE I—TRAINING AND TECH-**  
 4 **NICAL ASSISTANCE, CIVIL**  
 5 **AND CRIMINAL LEGAL AS-**  
 6 **SISTANCE GRANTS**

7 **SEC. 101. TRIBAL JUSTICE TRAINING AND TECHNICAL AS-**  
 8 **SISTANCE GRANTS.**

9 Subject to the availability of appropriations, the At-  
 10 torney General, in consultation with the Office of Tribal  
 11 Justice, shall award grants to national or regional mem-  
 12 bership organizations and associations whose membership  
 13 consists of judicial system personnel within tribal justice  
 14 systems which submit an application to the Attorney Gen-  
 15 eral in such form and manner as the Attorney General  
 16 may prescribe to provide training and technical assistance  
 17 for the development, enrichment, enhancement of tribal  
 18 justice systems, or other purposes consistent with this Act.

19 **SEC. 102. TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.**

20 Subject to the availability of appropriations, the At-  
 21 torney General, in consultation with the Office of Tribal  
 22 Justice, shall award grants to non-profit entities, as de-  
 23 fined under section 501(c)(3) of the Internal Revenue  
 24 Code, which provide legal assistance services for Indian  
 25 tribes, members of Indian tribes, or tribal justice systems

1 pursuant to federal poverty guidelines that submit an ap-  
2 plication to the Attorney General in such form and man-  
3 ner as the Attorney General may prescribe for the provi-  
4 sion of civil legal assistance to members of Indian tribes  
5 and tribal justice systems, and/or other purposes con-  
6 sistent with this Act.

7 **SEC. 103. TRIBAL CRIMINAL ASSISTANCE GRANTS.**

8       Subject to the availability of appropriations, the At-  
9 torney General, in consultation with the Office of Tribal  
10 Justice, shall award grants to non-profit entities, as de-  
11 fined by section 501(e)(3) of the Internal Revenue Code,  
12 which provide legal assistance services for Indian tribes,  
13 members of Indian tribes, or tribal justice systems pursu-  
14 ant to federal poverty guidelines that submit an applica-  
15 tion to the Attorney General in such form and manner  
16 as the Attorney General may prescribe for the provision  
17 of criminal legal assistance to members of Indian tribes  
18 and tribal justice systems, and/or other purposes con-  
19 sistent with this Act. Funding under this title may apply  
20 to programs, procedures, or proceedings involving adult  
21 criminal actions, juvenile delinquency actions, and/or  
22 guardian-ad-litem appointments arising out of criminal or  
23 delinquency acts.

1 **SEC. 104. NO OFFSET.**

2 No Federal agency shall offset funds made available  
3 pursuant to this Act for Indian tribal court membership  
4 organizations or Indian legal services organizations  
5 against other funds otherwise available for use in connec-  
6 tion with technical or legal assistance to tribal justice sys-  
7 tems or members of Indian tribes.

8 **SEC. 105. TRIBAL AUTHORITY.**

9 Nothing in this Act shall be construed to—

10 (1) encroach upon or diminish in any way the  
11 inherent sovereign authority of each tribal govern-  
12 ment to determine the role of the tribal justice sys-  
13 tem within the tribal government or to enact and en-  
14 force tribal laws;

15 (2) diminish in any way the authority of tribal  
16 governments to appoint personnel;

17 (3) impair the rights of each tribal government  
18 to determine the nature of its own legal system or  
19 the appointment of authority within the tribal gov-  
20 ernment;

21 (4) alter in any way any tribal traditional dis-  
22 pute resolution fora;

23 (5) imply that any tribal justice system is an  
24 instrumentality of the United States; or

1           (6) diminish the trust responsibility of the  
2           United States to Indian tribal governments and trib-  
3           al justice systems of such governments.

4 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

5           For purposes of carrying out the activities under this  
6 Act, there are authorized to be appropriated such sums  
7 as are necessary for fiscal years 2000 through 2004.

8 **SECTION 1. SHORT TITLE.**

9           *This Act may be cited as the “Indian Tribal Justice*  
10 *Technical and Legal Assistance Act of 1999”.*

11 **SEC. 2. FINDINGS.**

12           *The Congress finds and declares that—*

13                 (1) *there is a government-to-government relation-*  
14 *ship between the United States and Indian tribes;*

15                 (2) *Indian tribes are sovereign entities and are*  
16 *responsible for exercising governmental authority over*  
17 *Indian lands;*

18                 (3) *the rate of violent crime committed in Indian*  
19 *country is approximately twice the rate of violent*  
20 *crime committed in the United States as a whole;*

21                 (4) *in any community, a high rate of violent*  
22 *crime is a major obstacle to investment, job creation*  
23 *and economic growth;*

24                 (5) *tribal justice systems are an essential part of*  
25 *tribal governments and serve as important forums for*

1       *ensuring the health and safety and the political integ-*  
2       *riety of tribal governments;*

3               (6) *Congress and the Federal courts have repeat-*  
4       *edly recognized tribal justice systems as the most ap-*  
5       *propriate forums for the adjudication of disputes af-*  
6       *fecting personal and property rights on Native lands;*

7               (7) *enhancing tribal court systems and improv-*  
8       *ing access to those systems serves the dual Federal*  
9       *goals of tribal political self-determination and eco-*  
10       *nomie self-sufficiency;*

11              (8) *there is both inadequate funding and an in-*  
12       *adequate coordinating mechanism to meet the tech-*  
13       *nical and legal assistance needs of tribal justice sys-*  
14       *tems and this lack of adequate technical and legal as-*  
15       *sistance funding impairs their operation;*

16              (9) *tribal court membership organizations have*  
17       *served a critical role in providing training and tech-*  
18       *nical assistance for development and enhancement of*  
19       *tribal justice systems;*

20              (10) *Indian legal services programs, as funded*  
21       *partially through the Legal Services Corporation,*  
22       *have an established record of providing cost effective*  
23       *legal assistance to Indian people in tribal court fo-*  
24       *runs, and also contribute significantly to the develop-*  
25       *ment of tribal courts and tribal jurisprudence; and*

1           (11) *the provision of adequate technical assist-*  
2           *ance to tribal courts and legal assistance to both indi-*  
3           *viduals and tribal courts is an essential element in*  
4           *the development of strong tribal court systems.*

5 **SEC. 3. PURPOSES.**

6           *The purposes of this Act are as follows:*

7           (1) *to carry out the responsibility of the United*  
8           *States to Indian tribes and members of Indian tribes*  
9           *by ensuring access to quality technical and legal as-*  
10          *stance.*

11          (2) *To strengthen and improve the capacity of*  
12          *tribal court systems that address civil and criminal*  
13          *causes of action under the jurisdiction of Indian*  
14          *tribes.*

15          (3) *To strengthen tribal governments and the*  
16          *economies of Indian tribes through the enhancement*  
17          *and, where appropriate, development of tribal court*  
18          *systems for the administration of justice in Indian*  
19          *country by providing technical and legal assistance*  
20          *services.*

21          (4) *To encourage collaborative efforts between na-*  
22          *tional or regional membership organizations and as-*  
23          *sociations whose membership consists of judicial sys-*  
24          *tem personnel within tribal justice systems; non-profit*  
25          *entities which provide legal assistance services for In-*

1        *dian tribes, members of Indian tribes, and/or tribal*  
2        *justice systems.*

3                *(5) To assist in the development of tribal judicial*  
4        *systems by supplementing prior Congressional efforts*  
5        *such as the Indian Tribal Justice Act (Public Law*  
6        *103–176).*

7        **SEC. 4. DEFINITIONS.**

8        *For purposes of this Act:*

9                *(1) ATTORNEY GENERAL.—The term “Attorney*  
10        *General” means the Attorney General of the United*  
11        *States.*

12                *(2) INDIAN LANDS.—The term “Indian lands”*  
13        *shall include lands within the definition of “Indian*  
14        *country”, as defined in 18 U.S.C. 1151; or “Indian*  
15        *reservations”, as defined in section 3(d) of the Indian*  
16        *Financing Act of 1974, 25 U.S.C. 1452(d), or section*  
17        *4(10) of the Indian Child Welfare Act, 25 U.S.C.*  
18        *1903(10). For purposes of the preceding sentence, such*  
19        *section 3(d) of the Indian Financing Act shall be ap-*  
20        *plied by treating the term “former Indian reserva-*  
21        *tions in Oklahoma” as including only lands which*  
22        *are within the jurisdictional area of an Oklahoma In-*  
23        *Indian Tribe (as determined by the Secretary of Inte-*  
24        *rior) and are recognized by such Secretary as eligible*

1       *for trust land status under 25 CFR part 151 (as in*  
2       *effect on the date of enactment of this sentence).*

3           (3) *INDIAN TRIBE.*—*The term “Indian tribe”*  
4       *means any Indian tribe, band, nation, pueblo, or*  
5       *other organized group or community, including any*  
6       *Alaska Native entity, which administers justice or*  
7       *plans to administer justice under its inherent author-*  
8       *ity or the authority of the United States and which*  
9       *is recognized as eligible for the special programs and*  
10       *services provided by the United States to Indian*  
11       *tribes because of their status as Indians.*

12           (4) *JUDICIAL PERSONNEL.*—*The term “judicial*  
13       *personnel” means any judge, magistrate, court coun-*  
14       *selor, court clerk, court administrator, bailiff, proba-*  
15       *tion officer, officer of the court, dispute resolution*  
16       *facilitator, or other official, employee, or volunteer*  
17       *within the tribal judicial system.*

18           (5) *NON-PROFIT ENTITIES.*—*The term “non-prof-*  
19       *it entity” or “non-profit entities” has the meaning*  
20       *given that term in section 501(c)(3) of the Internal*  
21       *Revenue Code.*

22           (6) *OFFICE OF TRIBAL JUSTICE.*—*The term “Of-*  
23       *ice of Tribal Justice” means the Office of Tribal Jus-*  
24       *tice in the United States Department of Justice.*

1           (7) *TRIBAL JUSTICE SYSTEM.*—The term “tribal  
2     *court*”, “tribal court system”, or “tribal justice sys-  
3     *tem*” means the entire judicial branch, and employees  
4     *thereof, of an Indian tribe, including, but not limited*  
5     *to, traditional methods and fora for dispute resolu-*  
6     *tion, trial courts, appellate courts, including inter-*  
7     *tribal appellate courts, alternative dispute resolution*  
8     *systems, and circuit rider systems, established by in-*  
9     *herent tribunal authority whether or not they con-*  
10    *stitute a court of record.*

11    ***TITLE I—TRAINING AND TECH-***  
12    ***NICAL ASSISTANCE, CIVIL***  
13    ***AND CRIMINAL LEGAL ASSIST-***  
14    ***ANCE GRANTS***

15    ***SEC. 101. TRIBAL JUSTICE TRAINING AND TECHNICAL AS-***  
16    ***SISTANCE GRANTS.***

17           *Subject to the availability of appropriations, the Attor-*  
18    *ney General, in consultation with the Office of Tribal Jus-*  
19    *tice, shall award grants to national or regional membership*  
20    *organizations and associations whose membership consists*  
21    *of judicial system personnel within tribal justice systems*  
22    *which submit an application to the Attorney General in*  
23    *such form and manner as the Attorney General may pre-*  
24    *scribe to provide training and technical assistance for the*

1 *development, enrichment, enhancement of tribal justice sys-*  
2 *tems, or other purposes consistent with this Act.*

3 **SEC. 102. TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.**

4 *Subject to the availability of appropriations, the Attor-*  
5 *ney General, in consultation with the Office of Tribal Jus-*  
6 *tice, shall award grants to non-profit entities, as defined*  
7 *under section 501(c)(3) of the Internal Revenue Code, which*  
8 *provide legal assistance services for Indian tribes, members*  
9 *of Indian tribes, or tribal justice systems pursuant to fed-*  
10 *eral poverty guidelines that submit an application to the*  
11 *Attorney General in such form and manner as the Attorney*  
12 *General may prescribe for the provision of civil legal assist-*  
13 *ance to members of Indian tribes and tribal justice systems,*  
14 *and/or other purposes consistent with this Act.*

15 **SEC. 103. TRIBAL CRIMINAL ASSISTANCE GRANTS.**

16 *Subject to the availability of appropriations, the Attor-*  
17 *ney General, in consultation with the Office of Tribal Jus-*  
18 *tice, shall award grants to non-profit entities, as defined*  
19 *by section 501(c)(3) of the Internal Revenue Code, which*  
20 *provide legal assistance services for Indian tribes, members*  
21 *of Indian tribes, or tribal justice systems pursuant to fed-*  
22 *eral poverty guidelines that submit an application to the*  
23 *Attorney General in such form and manner as the Attorney*  
24 *General may prescribe for the provision of criminal legal*  
25 *assistance to members of Indian tribes and tribal justice*

1 *systems, and/or other purposes consistent with this Act.*  
2 *Funding under this title may apply to programs, proce-*  
3 *dures, or proceedings involving adult criminal actions, ju-*  
4 *venile delinquency actions, and/or guardian-ad-litem ap-*  
5 *pointments arising out of criminal or delinquency acts.*

6 **SEC. 104. NO OFFSET.**

7 *No Federal agency shall offset funds made available*  
8 *pursuant to this Act for Indian tribal court membership*  
9 *organizations or Indian legal services organizations against*  
10 *other funds otherwise available for use in connection with*  
11 *technical or legal assistance to tribal justice systems or*  
12 *members of Indian tribes.*

13 **SEC. 105. TRIBAL AUTHORITY.**

14 *Nothing in this Act shall be construed to—*

15 *(1) encroach upon or diminish in any way the*  
16 *inherent sovereign authority of each tribal govern-*  
17 *ment to determine the role of the tribal justice system*  
18 *within the tribal government or to enact and enforce*  
19 *tribal laws;*

20 *(2) diminish in any way the authority of tribal*  
21 *governments to appoint personnel;*

22 *(3) impair the rights of each tribal government*  
23 *to determine the nature of its own legal system or the*  
24 *appointment of authority within the tribal govern-*  
25 *ment;*



1           (D) tribal juvenile services and multi-disciplinary protocols for child physical and sexual  
2           abuse; and

3           (E) traditional tribal judicial practices,  
4           traditional tribal justice systems, and traditional  
5           methods of dispute resolution.

6           (b) *CONSULTATION*.—In carrying out this section, the  
7           Attorney General may consult with the Office of Tribal Justice and any other appropriate tribal or Federal officials.

8           (c) *REGULATIONS*.—The Attorney General may promulgate such regulations and guidelines as may be necessary to carry out this title.

9           (d) *AUTHORIZATION OF APPROPRIATIONS*.—For purposes of carrying out the activities under this section, there are authorized to be appropriated such sums as are necessary for fiscal years 2000 through 2004.

10       **SEC. 202. TRIBAL JUSTICE SYSTEMS.**

11       Section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) is amended—

12           (1) in subsection (a), by striking “1994, 1995, 1996, 1997, 1998, 1999, and 2000” and inserting “2000 through 2007”;

13           (2) in subsection (b), by striking “1994, 1995, 1996, 1997, 1998, 1999, and 2000” and inserting “2000 through 2007”;

1           (3) *in subsection (c), by striking “1994, 1995,*  
2           *1996, 1997, 1998, 1999, and 2000” and inserting*  
3           *“2000 through 2007”; and*

4           (4) *in subsection (d), by striking “1994, 1995,*  
5           *1996, 1997, 1998, 1999, and 2000” and inserting*  
6           *“2000 through 2007”.*