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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

# H. R.

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To support clarity and consistency with regard to the exercise of criminal jurisdiction and authority in Indian country, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. COLE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To support clarity and consistency with regard to the exercise of criminal jurisdiction and authority in Indian country, 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 “Cherokee Nation and  
5 Chickasaw Nation Criminal Jurisdiction Compacting Act  
6 of 2021”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1           (1) Court rulings have affirmed the Cherokee  
2           Nation and the Chickasaw Nation have reservations  
3           that constitute Indian country for purposes of crimi-  
4           nal jurisdiction, the boundaries of which are set  
5           forth in each Nation's respective treaties with the  
6           United States.

7           (2) Each Nation has worked with the State, in-  
8           cluding certain political subdivisions of the State, to  
9           ensure cooperation and coordination on law enforce-  
10          ment and public safety within the respective reserva-  
11          tions of the Nations.

12          (3) Legally effective compacts are important  
13          tools of Tribal self-determination and are useful in  
14          avoiding jurisdictional disputes within Indian coun-  
15          try;

16          (4) The Nations and the State have successfully  
17          implemented intergovernmental agreements on policie-  
18          ing, taxation, child welfare, gaming, hunting and  
19          fishing, and other matters implicating their respec-  
20          tive sovereign authorities, rights, and interests.

21          (5) Sections 1152 and 1153 of title 18, United  
22          States Code, and other Federal laws preempt the  
23          Nations and the State from forming effective com-  
24          pacts respecting criminal jurisdiction in Indian coun-  
25          try.

1           (6) It is necessary, proper, and consistent with  
2           Federal policies supporting Tribal self-determination  
3           to provide express, specific, and defined authoriza-  
4           tion for purposes of the Nations forming lawful and  
5           effective compacts with the State respecting criminal  
6           jurisdiction on Indian country (other than on Indian  
7           lands).

8   **SEC. 3. DEFINITIONS.**

9           In this Act:

10           (1) CHEROKEE NATION.—The term “Cherokee  
11           Nation” means the federally recognized Indian Tribe  
12           with its present Tribal headquarters south of Tahle-  
13           quah, Oklahoma, having adopted its most recent  
14           constitution on August 7, 2003, and having entered  
15           into various treaties with the United States, includ-  
16           ing the Treaty at Hopewell, executed on November  
17           28, 1785 (7 Stat. 18), and the Treaty at Wash-  
18           ington, D.C., executed on July 19, 1866 (14 Stat.  
19           799) and which has maintained a continuous govern-  
20           ment-to-government relationship with the United  
21           States since the earliest years of the Union.

22           (2) CHICKASAW NATION.—The term “Chicka-  
23           saw Nation” means a federally recognized Indian  
24           Tribe with its present Tribal headquarters in Ada,  
25           Oklahoma, having adopted its most recent constitu-

1       tion on August 27, 1983, and having entered into  
2       various treaties with the United States of America,  
3       including the Treaty at Hopewell, executed on Janu-  
4       ary 10, 1786 (7 Stat. 24), and the Treaty at Wash-  
5       ington, D.C., executed on April 28, 1866 (7 Stat.  
6       21), and which has maintained a continuous govern-  
7       ment-to-government relationship with the United  
8       States since the earliest years of the Union.

9               (3) INDIAN.—The term “Indian” has the mean-  
10       ing given that term in section 201(4) of the Indian  
11       Civil Rights Act of 1968 (25 U.S.C. 1301(4)).

12              (4) INDIAN COUNTRY.—The term “Indian coun-  
13       try” has the meaning given that term in section  
14       1151 of title 18 of the United States Code.

15              (5) INDIAN LAND.—The term “Indian land”  
16       means land within a Nation’s reservation—

17                   (A) title to which is held in trust by the  
18       United States for the benefit of an Indian Tribe  
19       or an Indian;

20                   (B) title to which is held in fee by an In-  
21       dian Tribe or an Indian subject to restrictions  
22       against alienation under laws of the United  
23       States;

24                   (C) title to which is held in fee by an In-  
25       dian Tribe or an Indian in accord with a treaty

1 with the United States to which an Indian  
2 Tribe is a party, and such land had never been  
3 allotted to any individual; or

4 (D) which otherwise constitutes Indian  
5 country under subsections (b) or (c) of section  
6 1151 of title 18, United States Code.

7 (6) INDIAN TRIBE.—The term “Indian Tribe”  
8 means any American Indian or Alaska Native Tribe,  
9 band, nation, pueblo, village, or community that the  
10 Secretary acknowledges to exist as a federally recog-  
11 nized Indian Tribe under the Federally Recognized  
12 Indian Tribe List Act of 1994 (25 U.S.C. 5131).

13 (7) NATION.—The term “Nation” means the  
14 Cherokee Nation or the Chickasaw Nation.

15 (8) NATIONS.—The “Nations” means the Cher-  
16 okee Nation and the Chickasaw Nation.

17 (9) SECRETARY.—The term “Secretary” means  
18 the Secretary of the Interior.

19 (10) STATE.—The term “State” means the  
20 State of Oklahoma.

21 **SEC. 4. RESERVATION INTEGRITY.**

22 To support clarity and consistency with respect to the  
23 exercise of criminal jurisdiction and authority on the Na-  
24 tions’ respective Indian country—

1           (1) the reservation of each Nation, with bound-  
2           aries as set forth in its most recent treaty or agree-  
3           ment with the United States, is acknowledged;

4           (2) the Secretary shall not take any land into  
5           trust status within the exterior boundary of the res-  
6           ervation of a Nation unless—

7                   (A) the land is taken into trust status for  
8                   the benefit of that Nation or of a citizen or citi-  
9                   zens of that Nation; or

10                   (B) the Nation consents in writing to the  
11                   trust status for such land; and

12           (3) the Secretary taking land within the exte-  
13           rior boundary of a Nation's reservation into trust in  
14           accordance with paragraph (2) shall not alter or di-  
15           minish any criminal or civil jurisdiction of the con-  
16           senting Nation.

17 **SEC. 5. NO EFFECT.**

18           Nothing in this Act—

19                   (1) waives the sovereign immunity of a Nation;

20                   (2) expands, limits, modifies, or otherwise af-  
21                   fects the authority or right that a Nation possesses  
22                   under, or which is protected by, a treaty with the  
23                   United States or other Federal law;

24                   (3) deprives a Nation of any right, privilege, or  
25                   immunity afforded under Federal treaty, agreement,

1 statute, or other law with respect to hunting, fish-  
2 ing, or water; or

3 (4) invalidates, supersedes, or restricts any  
4 intergovernmental agreement or compact between a  
5 Nation and the State, or any of its subdivisions, en-  
6 tered into before the date of the enactment of this  
7 Act.

8 **SEC. 6. INTERGOVERNMENTAL CRIMINAL JURISDICTION**  
9 **COMPACTS.**

10 (a) IN GENERAL.—A Nation may negotiate and enter  
11 into one or more intergovernmental compacts with the  
12 State regarding criminal jurisdiction on the Indian coun-  
13 try (other than on Indian land) of that Nation, in accord  
14 with this Act.

15 (b) AUTHORIZATION.—

16 (1) IN GENERAL.—Upon entering into a com-  
17 pact that satisfies the requirements of subsection (c)  
18 and subject to the limitations set forth in subsection  
19 (d) and the terms of such compact, the State may  
20 exercise its criminal jurisdiction in accord with its  
21 laws over offenses committed by or against Indians  
22 within the reservation of the Nation (other than on  
23 Indian land) to the same extent as the courts of the  
24 State have jurisdiction over and its laws apply to of-  
25 fenses committed elsewhere within the State on

1 lands that are not Indian country, notwithstanding  
2 sections 1152 and 1153 of title 18, United States  
3 Code, and other Federal laws providing for United  
4 States criminal jurisdiction exclusive of State juris-  
5 diction on lands that are Indian country.

6 (2) EXISTING JURISDICTION.—The jurisdiction  
7 of the State described in paragraph (1) shall be con-  
8 current with any criminal jurisdiction of the United  
9 States and the Nation on lands that are Indian  
10 country.

11 (c) REQUIREMENTS.—An intergovernmental criminal  
12 jurisdiction compact entered into under this section  
13 shall—

14 (1) define any geographic limits within the res-  
15 ervation of the compacting Nation on which the  
16 State may exercise criminal jurisdiction;

17 (2) define the categories of criminal offenders  
18 or offenses within the reservation of the compacting  
19 Nation over which the State may exercise jurisdic-  
20 tion;

21 (3) provide for means to amend the compact;

22 (4) provide for means for either party to revoke  
23 the compact upon not less than one year of written  
24 notice to the other party, specifying the date on  
25 which such revocation shall take effect and stating



1 that revocation shall not affect any action, pending  
2 proceeding, conviction, adjudication, or final deter-  
3 mination over which a court has already assumed ju-  
4 risdiction; and

5 (5) provide that it shall take legal effect upon  
6 entry in accordance with the respective laws of the  
7 State and the Nation.

8 (d) LIMITATIONS.—Nothing in this Act or any agree-  
9 ment entered under this Act shall—

10 (1) limit or otherwise diminish the jurisdiction  
11 of the United States or of a Nation;

12 (2) limit or otherwise affect the allocation of  
13 criminal jurisdiction respecting Indian land;

14 (3) alter or otherwise affect jurisdiction over  
15 any person for any offense committed before a com-  
16 pact takes effect;

17 (4) limit or otherwise diminish criminal juris-  
18 diction of the State over offenses committed by a  
19 person anywhere on the Indian country of a Nation  
20 before the date of a compact taking effect;

21 (5) limit or otherwise diminish applicability of  
22 the criminal laws of the State anywhere on the In-  
23 dian country of a Nation before the date of a com-  
24 pact taking effect; or

1           (6) confer upon the State any authority to im-  
2           pose any tax, fee, charge, or other assessment upon  
3           a Nation, nor may the State refuse to enter into a  
4           compact based on the lack of authority in the State,  
5           including its political subdivisions, to impose any  
6           such tax, fee, charge, or other assessment.

7   **SEC. 7. FEDERAL ENGAGEMENT.**

8           (a) UNITED STATES ATTORNEY GENERAL.—At the  
9           request of a Nation, the Attorney General shall consult  
10          with and provide technical assistance to the Nation for  
11          purposes of developing or implementing any compact au-  
12          thorized under this Act.

13          (b) BUREAU OF PRISONS.—In the case of an offender  
14          sentenced by a Nation to a term of imprisonment of more  
15          than 6 months, the Nation may require the offender to  
16          serve his or her sentence in the nearest appropriate Fed-  
17          eral facility. The Bureau of Prisons shall accept and im-  
18          plement the term of imprisonment in accordance with such  
19          sentence, and the term of imprisonment shall be subject  
20          to the conditions described in section 5003 of title 18,  
21          United States Code, regarding the custody of State offend-  
22          ers, except that any offender sentenced by a Nation shall  
23          be imprisoned at the expense of the United States.

24          (c) DUTIES OF THE SECRETARY.—

1           (1) PUBLICATION OF COMPACT.—Upon a Na-  
2           tion and the State entering a compact under section  
3           6, the Nation may provide a copy of the compact to  
4           the Secretary, who shall then cause notice of the  
5           compact to be published in the Federal Register not  
6           later than 30 days after receiving such copy.

7           (2) REPORT.—The Secretary shall—

8                   (A) in consultation with each Nation—

9                           (i) complete a report on the develop-  
10                           ment and implementation of compacts  
11                           under this Act; and

12                           (ii) make recommendations for further  
13                           action to support and enhance the criminal  
14                           justice system of each Nation, including  
15                           additional Federal expenditures appro-  
16                           priate to such actions; and

17                   (B) not later than 2 years after the date  
18                   of the enactment of this Act, submit the report  
19                   prepared under subparagraph (A) to the Com-  
20                   mittee on Natural Resources of the House of  
21                   Representatives and the Committee on Indian  
22                   Affairs of the Senate.