

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Stored Communications Act to include Tribal courts as courts of competent jurisdiction.

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IN THE SENATE OF THE UNITED STATES

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Ms. CORTEZ MASTO introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Stored Communications Act to include Tribal courts as courts of competent jurisdiction.

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 “Tribal Access to Elec-  
5 tronic Evidence Act”.

6 **SEC. 2. TRIBAL COURTS AS COURTS OF COMPETENT JURIS-**  
7 **DICTION UNDER STORED COMMUNICATIONS**  
8 **ACT.**

9 (a) DEFINITIONS.—Section 2711 of title 18, United  
10 States Code, is amended—

1 (1) in paragraph (3)—

2 (A) in subparagraph (B), by striking “or”  
3 at the end;

4 (B) by redesignating subparagraph (C) as  
5 subparagraph (D); and

6 (C) by inserting after subparagraph (B)  
7 the following:

8 “(C) a Tribal court; or”; and

9 (2) by striking paragraph (4) and inserting the  
10 following:

11 “(4) the term ‘governmental entity’ means a de-  
12 partment or agency of—

13 “(A) the United States;

14 “(B) any State or political subdivision  
15 thereof; or

16 “(C) any Indian Tribe or political subdivi-  
17 sion thereof;

18 “(5) the term ‘Indian Tribe’ means any Indian  
19 or Alaska Native tribe, band, nation, pueblo, village,  
20 community, component band, or component reserva-  
21 tion individually identified (including parenthetically)  
22 on the most recent list published by the Secretary of  
23 the Interior under section 104 of the Federally Rec-  
24 ognized Indian Tribe List Act of 1994 (25 U.S.C.  
25 5131); and

1 “(6) the term ‘Tribal court’ means a court of  
2 general criminal jurisdiction of an Indian Tribe au-  
3 thorized by the law of that Indian Tribe to issue  
4 search warrants.”.

5 (b) REQUIRED DISCLOSURE OF CUSTOMER COMMU-  
6 NICATIONS OR RECORDS.—Section 2703 of title 18,  
7 United States Code, is amended—

8 (1) in subsection (a), by striking the first sen-  
9 tence and inserting the following:

10 “(1) IN STORAGE 180 DAYS OR LESS.—A gov-  
11 ernmental entity may require the disclosure by a  
12 provider of electronic communication service of the  
13 contents of a wire or electronic communication, that  
14 is in electronic storage in an electronic communica-  
15 tions system for 180 days or less, only pursuant to  
16 a warrant issued by a court of competent jurisdic-  
17 tion—

18 “(A) issued using the procedures described  
19 in the Federal Rules of Criminal Procedure;

20 “(B) in the case of a State court, issued  
21 using State warrant procedures;

22 “(C) in the case of a court-martial or other  
23 proceeding under chapter 47 of title 10 (the  
24 Uniform Code of Military Justice), issued under

1 section 846 of that title, in accordance with  
2 regulations prescribed by the President); or

3 “(D) in the case of a Tribal court, issued  
4 using the warrant procedures described in sec-  
5 tion 202(a)(2) of Public Law 90–284 (com-  
6 monly known as the ‘Indian Civil Rights Act of  
7 1968’) (25 U.S.C. 1302(a)(2)).

8 “(2) IN STORAGE MORE THAN 180 DAYS.—”;  
9 (2) in subsection (b)(1)—

10 (A) in subparagraph (A), by striking  
11 “using the procedures described in the Federal  
12 Rules of Criminal Procedure” and all that fol-  
13 lows through “prescribed by the President)”  
14 and inserting “in accordance with subsection  
15 (a)(1)”; and

16 (B) in subparagraph (B)(i), by inserting “,  
17 Tribal,” after “a Federal” each place it ap-  
18 pears; and

19 (3) in subsection (c)—

20 (A) in paragraph (1)(A), by striking  
21 “using the procedures described in the Federal  
22 Rules of Criminal Procedure” and all that fol-  
23 lows through “prescribed by the President)”  
24 and inserting “in accordance with subsection  
25 (a)(1)”; and

1 (B) in paragraph (2), in the undesignated  
2 matter following subparagraph (F), by inserting  
3 “, Tribal,” after “a Federal” each place it ap-  
4 pears.

5 (c) DELAYED NOTICE.—Section 2705(a)(1)(B) of  
6 title 18, United States Code, is amended by inserting “,  
7 Tribal,” after “a Federal” each place it appears.

8 (d) CIVIL ACTION.—Section 2707(g) of title 18,  
9 United States Code, is amended, in the second sentence,  
10 by inserting “Tribal,” after “State,”.

11 (e) WRONGFUL DISCLOSURE OF VIDEO TAPE RENT-  
12 AL OR SALE RECORDS.—Section 2710 of title 18, United  
13 States Code, is amended—

14 (1) in subsection (b)(2)(C), by inserting after  
15 “an equivalent State warrant,” the following: “a  
16 warrant issued by a Tribal court using the warrant  
17 procedures described in section 202(a)(2) of Public  
18 Law 90–284 (commonly known as the ‘Indian Civil  
19 Rights Act of 1968’) (25 U.S.C. 1302(a)(2)),”; and

20 (2) in subsection (d), by striking “or a political  
21 subdivision of a State” and inserting “a political  
22 subdivision of a State, or an Indian Tribe”.