
HOUSE BILL 1936

State of Washington 58th Legislature 2003 Regular Session

By Representatives Carrell, McCoy, O'Brien and Lovick

Read first time 02/17/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to the tribal law enforcement officers act of 2003;
2 and adding a new chapter to Title 10 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds a need for tribal law
5 enforcement officers to exercise the laws of the state of Washington
6 over non-Indian persons while those persons are on tribal lands or
7 reservations to efficiently deal with criminal activities conducted by
8 those who would threaten the peace and safety of Indian communities
9 through their actions. The legislature further finds that allowing
10 tribal law enforcement officers to exercise such limited powers over
11 non-Indian persons in Indian country, as defined by federal law, is
12 necessary to protect all Washington citizens through the equal
13 application of the laws of tribal governments and the laws of the state
14 of Washington. The legislature intends to balance the common interests
15 of the state of Washington and tribal governments to provide basic
16 police services in the effort to maintain peace and social order, and
17 provide for the more efficient use of available resources by agencies
18 responding to crimes and incidents that occur in Indian country.

1 NEW SECTION. **Sec. 2.** (1) Duly sworn and commissioned tribal law
2 enforcement officers who meet the standards set forth in subsection (2)
3 of this section and who are employed by a tribal government that has
4 entered into an agreement under section 3 of this act may exercise
5 general authority peace officer powers over non-Indian persons when
6 those individuals are on tribal lands or within the external boundaries
7 of Indian reservations. The exercise of general authority powers on
8 tribal lands and reservations over non-Indian persons by tribal law
9 enforcement officers does not grant general authority peace officer
10 powers as those extended to officers employed by political subdivisions
11 of the state under chapter 10.93 RCW, the Washington mutual aid peace
12 officers powers act.

13 (2) Tribal law enforcement officers who are subject to a
14 government-to-government agreement must possess a certificate of basic
15 law enforcement training or a certificate of equivalency or an
16 exemption from the requirement by the Washington state criminal justice
17 training commission.

18 NEW SECTION. **Sec. 3.** (1) Tribal law enforcement officers may
19 exercise general authority peace officer powers over non-Indian persons
20 when those individuals are on tribal lands or within the external
21 boundaries of Indian reservations if the employing tribal government
22 has entered into an agreement with the state of Washington that allows
23 for the arrest of a non-Indian person by tribal law enforcement
24 officers, and the agreement contains the following elements:

25 (a) The tribe or tribes are sovereign and agree to follow all
26 rules, procedures, and processes prescribed by the courts of the state
27 of Washington for the purpose of enforcing state law upon non-Indians
28 as set forth by this agreement;

29 (b) The tribe or tribes agree that a non-Indian person arrested
30 under this agreement is entitled to all due process provided by the
31 laws of the state of Washington;

32 (c) The tribe or tribes recognize the federal constitutional rights
33 of an arrested, non-Indian person as if that individual had been
34 arrested by a general authority peace officer employed by a political
35 subdivision of the state of Washington;

36 (d) The tribe or tribes agree to maintain specified hiring and
37 training standards for their commissioned officers as set forth by the

1 northwest association of tribal enforcement officers or equivalent
2 standards that meet or exceed the standards agreed to by the state of
3 Washington; and

4 (e) The tribe or tribes agree to be civilly liable for acts or
5 omissions of their tribal law enforcement officers in the court of
6 primary jurisdiction. Every tribal law enforcement agency that is not
7 subject to the federal tort claims act shall maintain a liability
8 insurance policy, as stipulated in the government-to-government
9 agreement, to cover any liability arising from the enforcement of state
10 criminal law pursuant to the authority granted by this section.

11 (2) The government-to-government agreement may provide for the
12 distribution of revenues and the payment of costs resulting from the
13 exercise of general authority peace officer powers by tribal
14 enforcement officers. Distribution of the revenues and payments of
15 costs must be in accordance with Washington law.

16 (3) Commissioned tribal law enforcement officers may participate in
17 multiagency task forces and mutual aid operations if those actions are
18 conducted under their established interagency agreements or a tribal
19 law enforcement officer has been extended a commission to so act from
20 the chief law enforcement official of that jurisdiction.

21 NEW SECTION. **Sec. 4.** A tribal law enforcement officer may
22 exercise the powers of a general authority peace officer if the tribal
23 law enforcement officer exercises the authority under an agency-to-
24 agency mutual aid agreement or a memorandum of understanding, or if the
25 tribal law enforcement officer has been extended an individual
26 commission for those purposes by the recognized chief law enforcement
27 official of the agency for which the officer exercises those general
28 authority peace officer powers. The commission may be extended or
29 withdrawn by the elected or appointed chief law enforcement official or
30 an agency, regardless of title.

31 NEW SECTION. **Sec. 5.** This act may be known and cited as the
32 tribal law enforcement act of 2003.

33 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute

1 a new chapter in Title 10 RCW.

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