

**ESHB 2233 - S AMD 282**  
By Senator Pridemore

ADOPTED 03/05/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 37.12 RCW  
4 to read as follows:

5 (1) The process by which the state may retrocede to the United  
6 States all or part of the civil and/or criminal jurisdiction previously  
7 acquired by the state over a federally recognized Indian tribe, and the  
8 Indian country of such tribe, must be accomplished in accordance with  
9 the requirements of this section.

10 (2) To initiate civil and/or criminal retrocession the duly  
11 authorized governing body of a tribe must submit a retrocession  
12 resolution to the governor accompanied by information about the tribe's  
13 plan regarding the tribe's exercise of jurisdiction following the  
14 proposed retrocession. The resolution must express the desire of the  
15 tribe for the retrocession by the state of all or any measures or  
16 provisions of the civil and/or criminal jurisdiction acquired by the  
17 state under this chapter over the Indian country and the members of  
18 such Indian tribe. Before a tribe submits a retrocession resolution to  
19 the governor, the tribe and affected municipalities are encouraged to  
20 collaborate in the adoption of interlocal agreements, or other  
21 collaborative arrangements, with the goal of ensuring that the best  
22 interests of the tribe and the surrounding communities are served by  
23 the retrocession process.

24 (3) Upon receiving a resolution under this section, the governor  
25 must within ninety days convene a government-to-government meeting with  
26 either the governing body of the tribe or duly authorized tribal  
27 representatives for the purpose of considering the tribe's retrocession  
28 resolution. The governor's office must consult with elected officials  
29 from the counties, cities, and towns proximately located to the area of  
30 the proposed retrocession.

1           (4) Within one year of the receipt of an Indian tribe's  
2 retrocession resolution the governor must issue a proclamation, if  
3 approving the request either in whole or in part. This one-year  
4 deadline may be extended by the mutual consent of the tribe and the  
5 governor, as needed. In addition, either the tribe or the governor may  
6 extend the deadline once for a period of up to six months. Within ten  
7 days of issuance of a proclamation approving the retrocession  
8 resolution, the governor must formally submit the proclamation to the  
9 federal government in accordance with the procedural requirements for  
10 federal approval of the proposed retrocession. In the event the  
11 governor denies all or part of the resolution, the reasons for such  
12 denial must be provided to the tribe in writing.

13           (5) Within one hundred twenty days of the governor's receipt of a  
14 tribe's resolution requesting civil and/or criminal retrocession, but  
15 prior to the governor's issuance of the proclamation approving or  
16 denying the tribe's resolution, the appropriate standing committees of  
17 the state house and senate may conduct public hearings on the tribe's  
18 request for state retrocession. The majority leader of the senate must  
19 designate the senate standing committee and the speaker of the house of  
20 representatives must designate the house standing committee. Following  
21 such public hearings, the designated legislative committees may submit  
22 advisory recommendations and/or comments to the governor regarding the  
23 proposed retrocession, but in no event are such legislative  
24 recommendations binding on the governor or otherwise of legal effect.

25           (6) The proclamation for retrocession does not become effective  
26 until it is approved by a duly designated officer of the United States  
27 government and in accordance with the procedures established by the  
28 United States for the approval of a proposed state retrocession.

29           (7) The provisions of RCW 37.12.010 are not applicable to a civil  
30 and/or criminal retrocession that is accomplished in accordance with  
31 the requirements of this section.

32           (8) For any proclamation issued by the governor under this section  
33 that addresses the operation of motor vehicles upon the public streets,  
34 alleys, roads, and highways, the governor must consider the following:

35           (a) Whether the affected tribe has in place interlocal agreements  
36 with neighboring jurisdictions, including applicable state  
37 transportation agencies, that address uniformity of motor vehicle  
38 operations over Indian country;

1 (b) Whether there is a tribal traffic policing agency that will  
2 ensure the safe operation of motor vehicles in Indian country;

3 (c) Whether the affected tribe has traffic codes and courts in  
4 place; and

5 (d) Whether there are appropriate traffic control devices in place  
6 sufficient to maintain the safety of the public roadways.

7 (9) The following definitions apply for the purposes of this  
8 section:

9 (a) "Civil retrocession" means the state's act of returning to the  
10 federal government the civil jurisdiction acquired over Indians and  
11 Indian country under federal Public Law 280, Act of August 15, 1953, 67  
12 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25 U.S.C. Secs.  
13 1321-1326, and 28 U.S.C. Sec. 1360);

14 (b) "Criminal retrocession" means the state's act of returning to  
15 the federal government the criminal jurisdiction acquired over Indians  
16 and Indian country under federal Public Law 280, Act of August 15,  
17 1953, 67 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25  
18 U.S.C. Secs. 1321-1326, and 28 U.S.C. Sec. 1360);

19 (c) "Indian tribe" means any federally recognized Indian tribe,  
20 nation, community, band, or group;

21 (d) "Indian country" means:

22 (i) All land within the limits of any Indian reservation under the  
23 jurisdiction of the United States government, notwithstanding the  
24 issuance of any patent, and including rights-of-way running through the  
25 reservation;

26 (ii) All dependent Indian communities with the borders of the  
27 United States whether in the original or subsequently acquired  
28 territory thereof, and whether within or without the limits of a state;  
29 and

30 (iii) All Indian allotments, the Indian titles to which have not  
31 been extinguished, including rights-of-way running through the same.

32 NEW SECTION. **Sec. 2.** A new section is added to chapter 37.12 RCW  
33 to read as follows:

34 A civil or criminal retrocession accomplished pursuant to the  
35 procedure set forth in section 1 of this act does not:

36 (1) Affect the state's civil jurisdiction over the civil commitment

1 of sexually violent predators pursuant to chapter 71.09 RCW and the  
2 state must retain such jurisdiction notwithstanding the completion of  
3 the retrocession process authorized under section 1 of this act; and

4 (2) Abate any action or proceeding which has been filed with any  
5 court or agency of the state or local government preceding the  
6 effective date of the completion of a retrocession authorized under  
7 section 1 of this act.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 37.12 RCW  
9 to read as follows:

10 (1) The provisions of section 1 of this act do not affect the  
11 validity of any retrocession procedure commenced under RCW 37.12.100  
12 through 37.12.140 prior to the effective date of this section.

13 (2) Any Indian tribe that has commenced but not completed the  
14 retrocession procedure authorized in RCW 37.12.100 through 37.12.140  
15 may request retrocession under section 1 of this act in lieu of  
16 completing that procedure.

17 (3) Any Indian tribe that has completed the retrocession procedure  
18 authorized in RCW 37.12.100 through 37.12.140 may use the process  
19 authorized under section 1 of this act to request retrocession of any  
20 civil or criminal jurisdiction retained by the state under RCW  
21 37.12.120 or 37.12.010.

22 (4) The provisions of RCW 37.12.120 are not applicable to a civil  
23 and/or criminal retrocession that is accomplished in accordance with  
24 the requirements of section 1 of this act."

ESHB 2233 - S AMD  
By Senator Pridemore

**ADOPTED 03/05/2012**

25 On page 1, line 3 of the title, after "country;" strike the  
26 remainder of the title and insert "and adding new sections to chapter  
27 37.12 RCW."

EFFECT: Makes clarifications and technical changes. Adds a

provision specifying that a retrocession will not abate any action or proceeding filed with any court or agency of state or local government preceding the effective date of the retrocession. For any retrocession proclamation addressing operation of motor vehicles upon public roadways, the Governor must consider whether: (1) The affected tribe has interlocal agreements with neighboring jurisdictions, including applicable state transportation agencies, that address uniformity of motor vehicle operations over Indian country; (2) there is a tribal traffic policing agency that will ensure safe operation of motor vehicles in Indian country; (3) the affected tribe has traffic codes and courts; and (4) there are appropriate traffic control devices sufficient to maintain safety of public roadways.

--- END ---