
ENGROSSED SUBSTITUTE HOUSE BILL 2233

State of Washington

62nd Legislature

2012 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representatives McCoy, Hunt, Haigh, Pedersen, Appleton, Morris, Billig, Fitzgibbon, Eddy, Sells, Tharinger, Jenkins, Hasegawa, Pollet, Wylie, Upthegrove, and Roberts)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to creating a procedure for the state's
2 retrocession of civil and criminal jurisdiction over Indian tribes and
3 Indian country; and adding a new section to chapter 37.12 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 37.12 RCW
6 to read as follows:

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

12 (2) To initiate civil and/or criminal retrocession the duly
13 authorized governing body of a tribe must submit a retrocession
14 resolution to the governor accompanied by information about the tribe's
15 plan regarding the tribe's exercise of jurisdiction following the
16 proposed retrocession. The resolution must express the desire of the
17 tribe for the retrocession by the state of all or any measures or
18 provisions of the civil and/or criminal jurisdiction acquired by the
19 state under this chapter over the Indian country and the members of

1 such Indian tribe. Before a tribe submits a retrocession resolution to
2 the governor, the tribe and affected municipalities are encouraged to
3 collaborate in the adoption of interlocal agreements, or other
4 collaborative arrangements, with the goal of ensuring that the best
5 interests of the tribe and the surrounding communities are served by
6 the retrocession process.

7 (3) Upon receiving a resolution under this section, the governor
8 must within ninety days convene a government-to-government meeting with
9 either the governing body of the tribe or duly authorized tribal
10 representatives for the purpose of considering the tribe's retrocession
11 resolution. The governor must consult with elected officials from the
12 counties, cities, and towns proximately located to the area of the
13 proposed retrocession.

14 (4) Within one year of the receipt of a tribe's retrocession
15 resolution the governor must issue a formal, written proclamation
16 approving or denying the resolution, either in whole or in part. This
17 one-year deadline may be extended by the mutual consent of the tribe
18 and the governor, as needed. In addition, either the tribe or the
19 governor may extend the deadline once for a period of up to six months.
20 Within ten days of issuance of a proclamation approving the
21 retrocession resolution, the governor must formally submit the
22 proclamation to the federal government in accordance with the
23 procedural requirements for federal approval of the proposed
24 retrocession. In the event the governor denies all or part of the
25 resolution, the reasons for such denial must be provided to the tribe
26 in writing.

27 (5) Within one hundred twenty days of the governor's receipt of a
28 tribe's resolution requesting civil and/or criminal retrocession, but
29 prior to the governor's issuance of the proclamation approving or
30 denying the tribe's resolution, the appropriate standing committees of
31 the state house and senate may conduct public hearings on the tribe's
32 request for state retrocession. The majority leader of the senate must
33 designate the senate standing committee and the speaker of the house of
34 representatives must designate the house standing committee. Following
35 such public hearings, the designated legislative committees may submit
36 advisory recommendations and/or comments to the governor regarding the
37 proposed retrocession, but in no event are such legislative
38 recommendations binding on the governor or otherwise of legal effect.

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

5 (7) Notwithstanding the state's retrocession of criminal and/or
6 civil jurisdiction under this section, the state must retain the civil
7 jurisdiction necessary for the civil commitment of sexually violent
8 predators pursuant to chapter 71.09 RCW.

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

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

16 (b) "Criminal retrocession" means the state's act of returning to
17 the federal government the criminal jurisdiction acquired over Indians
18 and Indian country under federal Public Law 280, Act of August 15,
19 1953, 67 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25
20 U.S.C. Secs. 1321-1326, and 28 U.S.C. Sec. 1360);

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

23 (d) "Indian country" means:

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

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

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

34 (9) The provisions of RCW 37.12.010 are not applicable to a civil
35 and/or criminal retrocession that is accomplished in accordance with
36 the requirements of this section.

37 (10)(a) The provisions of this section do not affect the validity

1 of any retrocession procedure commenced under RCW 37.12.100 through
2 37.12.140 prior to the effective date of this act.

3 (b) Any Indian tribe that has commenced but not completed the
4 retrocession procedure authorized in RCW 37.12.100 through 37.12.140
5 may request retrocession under this section in lieu of completing that
6 procedure.

7 (c) Any Indian tribe that has completed the retrocession procedure
8 authorized in RCW 37.12.100 through 37.12.140 may use the process
9 authorized in this section to request retrocession of any civil or
10 criminal jurisdiction retained by the state under RCW 37.12.120 or
11 37.12.010.

12 (d) The provisions of RCW 37.12.120 are not applicable to a civil
13 and/or criminal retrocession that is accomplished in accordance with
14 the requirements of this section.

--- END ---