

SENATE BILL REPORT

SB 6115

As Passed Senate, February 7, 2018

Title: An act relating to residential custody services for tribal youth.

Brief Description: Concerning residential custody services for tribal youth.

Sponsors: Senators McCoy, Darneille, Keiser, Palumbo, Nelson, Lias, Van De Wege, Hunt, Chase, Saldaña, Kuderer and Hasegawa; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services & Corrections: 1/09/18, 1/10/18 [DP].

Floor Activity:

Passed Senate: 2/07/18, 48-0.

Brief Summary of Bill

- Allows Department of Social and Health Services (DSHS) to contract with Indian tribes to provide residential custody services in a state juvenile rehabilitation (JR) facility for youth adjudicated and sentenced in tribal court.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Walsh.

Staff: Kevin Black (786-7747)

Background: Washington is home to 29 federally-recognized Indian tribes. Tribes exercise sovereignty over tribal lands. Various laws and intergovernmental agreements recognize the authority of federally-recognized tribes to establish a tribal court.

There are 29 tribal courts in Washington, including two tribal courts of appeals. Tribal courts are courts of general jurisdiction which have broad jurisdiction over offenses committed by Indian youth and adults on tribal land. Tribal courts have in the past entered into residential

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

service agreements with the DSHS to allow tribal youth offenders to be detained in JR facilities when the offender's sentence originated in tribal court. This service was interrupted on June 30, 2017, based on legal concerns about the authority to enter these agreements. These agreements were subsequently reinstated at the direction of the Governor.

The Interlocal Cooperation Act allows local government units to make efficient use of their powers by cooperating on the basis of mutual advantage to provide services and facilities in a manner that will accord best with geographic, economic, population, and other factors.

Summary of Bill: DSHS may contract with tribes to provide residential custody services in a state JR facility for youth adjudicated and sentenced in tribal court. Such services must be provided pursuant to a contract entered in compliance with the Interlocal Cooperation Act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill arose from a collaborative effort to address an issue of mutual concern regarding tribal youth in need of services that are not available outside a JR facility. In the early 2000's JR did a lot of work with the Colville Tribe which led to the first residential custody service agreement in 2004. Few tribal youth enter into the system, but it works well. In 2016, a legal review by our assistant attorney general raised a concern about the lack of clear statutory language governing these agreements. Five agreements with tribes were terminated in June 2017. As a short term solution, the Governor has permitted JR to reinstate these agreements. There is no resource more vital to the continued existence and integrity of Indian tribes than our children. For tribal youth who commit offenses on a reservation, no state law can exercise jurisdiction, due to retrocession. We do not anticipate many referrals, but we do not have resources such as psychiatric or sex offender treatment which are available from JR. Everything was going along smoothly before the attorneys raised questions. Youth who don't receive services become adults who need additional services.

Persons Testifying: PRO: Marybeth Queral, DSHS Rehabilitation Administration; Joel Boyd, Colville Business Council; Gina Beckwith, Port Gamble S'Klallam.

Persons Signed In To Testify But Not Testifying: No one.