**1555-S.E AMS LAW S2695.1 - NOT FOR FLOOR USE**

**ESHB 1555** - S COMM AMD

By Committee on Law & Justice

**NOT CONSIDERED 05/17/2023**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Demanding tribe" means the federally recognized sovereign tribal government, whose traditional lands and territories lie within the borders of the state of Washington, that is requesting that a tribal fugitive be surrendered to the duly authorized agent of the tribe.

(2) "Place of detention" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state corrections institution or any county or city jail.

(3) "Tribal court judge" includes every judicial officer authorized alone or with others, to hold or preside over the court of one of the federally recognized sovereign tribal governments, whose traditional lands and territories lie within the borders of the state of Washington.

(4) "Tribal fugitive" means any person who is subject to tribal court jurisdiction who was present within the traditional lands of one of the federally recognized sovereign tribal governments at the time of the commission of an alleged crime under the tribal code, and who thereafter fled the reservation to avoid prosecution.

(5) "Tribal police officer" means any person in the employ of one of the federally recognized sovereign tribal governments, whose traditional lands and territories lie within the borders of the state of Washington, to enforce the criminal laws of that government.

NEW SECTION. **Sec.**  A place of detention shall provide notice to the tribal court judge who issued an arrest warrant for a tribal fugitive as soon as practicable after learning that the tribal fugitive is a prisoner in the place of detention. The notice shall include the reason for the detention and the anticipated date of release.

NEW SECTION. **Sec.**  (1) The Indian tribe whose court issued the warrant of arrest may demand the extradition of the tribal fugitive from a place of detention. The request shall be accompanied by:

(a) A copy of any arrest warrant issued for the individual;

(b) A copy of any judgment of conviction or sentence imposed, if applicable;

(c) A copy of the complaint, information, or other charging document; and

(d) A sworn statement from a tribal court judge that:

(i) The person claimed has escaped or evaded confinement, or broken the terms of their probation, bail, or parole;

(ii) The individual has been charged with committing a specific offense under the laws of the tribe; and

(iii) The tribal court may exercise personal jurisdiction over the individual under federal law.

(2) The copy of the arrest warrant, charging document, affidavit, judgment of conviction, or sentence must be authenticated by the tribal authority responsible for maintaining the records.

(3) The request for extradition shall be directed to the county prosecuting attorney of the county in which the city or county jail is located, and to the attorney general for tribal fugitives detained in department of corrections facilities.

NEW SECTION. **Sec.**  If a criminal prosecution has been instituted against a tribal fugitive under the laws of this state or any political subdivision thereof and is still pending, extradition on a tribal court request shall be placed on hold until the tribal fugitive has been tried and discharged or convicted and punished in this state.

NEW SECTION. **Sec.**  (1) The attorney general or prosecuting attorney shall submit all documents specified in section 3 of this act to a judge of a court of record in this state along with a motion for an order of surrender. The motion for order of surrender shall be served upon the person whose extradition is requested.

(2) A person who is served with a motion for an order of surrender shall be taken before a judge of a court of record in this state the next judicial day. The judge shall inform the person of the demand made for the person's surrender and the crime with which the person is charged, and that the person has the right to demand and procure legal counsel.

(3) The person whose return is demanded may, in the presence of any judge of a court of record, sign a statement that the person consents to his or her return to the demanding tribe. However, before such waiver may be executed, it shall be the duty of such judge to inform the person of his or her right to test the legality of the extradition request before an order of surrender may be issued.

(4) Any hearing to test the legality of the extradition request shall occur within three judicial days of the person receiving notice of the motion for an order of surrender. The hearing is limited to determining:

(a) Whether the person has been charged with a crime by the demanding tribe;

(b) Whether the person before the court is the person named in the request for extradition; and

(c) Whether the person is a fugitive.

(5) The guilt or innocence of the person as to the crime of which the person is charged may not be inquired into by a superior court judge except as it may be necessary to identify the person held as being the person charged with the crime.

(6) If the superior court judge decides that the extradition demand should be complied with, the judge shall issue an order of surrender to the demanding tribe. If the demanding tribe does not take custody of the person pursuant to the order of surrender on the date the person is scheduled to be released from the place of detention or within 48 hours of the entry of the order of surrender, whichever is later, the person may be released from custody with bail conditioned on the person's appearance before the court at a time specified for his or her surrender to the demanding tribe or for the vacation of the order of surrender.

NEW SECTION. **Sec.**  A place of detention facility shall deliver a person in custody to the accredited agent or agents of a demanding tribe without a judicial order of surrender provided that:

(1) Such person is alleged to have broken the terms of his or her probation, parole, bail, or any other release of the demanding tribe;

(2) The place of detention has received from the demanding tribe an authenticated copy of a prior waiver of extradition signed by such person as a term of his or her probation, parole, bail, or any other release of the demanding tribe and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver; and

(3) The person is not subject to any detainers or arrest warrants issued by any state or municipal court.

NEW SECTION. **Sec.**  An Indian tribe that requests extradition pursuant to this act is responsible for the costs of extradition and to arrange the transportation for the tribal fugitive from the place of detention to the tribal court or detention facility. The detention facility and demanding tribe are encouraged to select the means of transport that best protects public safety after considering available resources.

Tribal police officers may exercise their police powers outside the traditional lands and territories of the Indian tribe when the officer is transporting a tribal fugitive pursuant to an order of surrender.

NEW SECTION. **Sec.**  This act is not intended to and does not diminish the authority of the state or local jurisdictions to enter into government-to-government agreements with Indian tribes, including mutual aid and other interlocal agreements, concerning the extradition of persons within their jurisdiction, does not diminish the validity or enforceability of any such agreements, and is not intended to and does not expand or diminish the authority of the state or local jurisdictions to arrest individuals over whom they have jurisdiction within Indian reservations.

NEW SECTION. **Sec.**  This chapter may be known and cited as the "tribal fugitive extradition act."

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 10 RCW."

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On page 1, line 2 of the title, after "jurisdiction;" strike the remainder of the title and insert "and adding a new chapter to Title 10 RCW."

EFFECT: Provides a process for federally recognized Indian tribes within the state of Washington to request extradition of an individual from within the jurisdiction of Washington state or any political subdivision thereof to the jurisdiction of the tribe. Provides a process for an individual subject to the extradition request of an Indian tribe to test the legality of the extradition request. Requires Indian tribes that request extradition to pay the costs of extradition and transportation.