

ESHB 1555 - S COMM AMD

By Committee on Law & Justice

NOT CONSIDERED 05/17/2023

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

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

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

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

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

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

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

29 NEW SECTION. **Sec. 2.** A place of detention shall provide notice
30 to the tribal court judge who issued an arrest warrant for a tribal

1 fugitive as soon as practicable after learning that the tribal
2 fugitive is a prisoner in the place of detention. The notice shall
3 include the reason for the detention and the anticipated date of
4 release.

5 NEW SECTION. **Sec. 3.** (1) The Indian tribe whose court issued
6 the warrant of arrest may demand the extradition of the tribal
7 fugitive from a place of detention. The request shall be accompanied
8 by:

- 9 (a) A copy of any arrest warrant issued for the individual;
- 10 (b) A copy of any judgment of conviction or sentence imposed, if
11 applicable;
- 12 (c) A copy of the complaint, information, or other charging
13 document; and
- 14 (d) A sworn statement from a tribal court judge that:
 - 15 (i) The person claimed has escaped or evaded confinement, or
16 broken the terms of their probation, bail, or parole;
 - 17 (ii) The individual has been charged with committing a specific
18 offense under the laws of the tribe; and
 - 19 (iii) The tribal court may exercise personal jurisdiction over
20 the individual under federal law.

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

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

28 NEW SECTION. **Sec. 4.** If a criminal prosecution has been
29 instituted against a tribal fugitive under the laws of this state or
30 any political subdivision thereof and is still pending, extradition
31 on a tribal court request shall be placed on hold until the tribal
32 fugitive has been tried and discharged or convicted and punished in
33 this state.

34 NEW SECTION. **Sec. 5.** (1) The attorney general or prosecuting
35 attorney shall submit all documents specified in section 3 of this
36 act to a judge of a court of record in this state along with a motion

1 for an order of surrender. The motion for order of surrender shall be
2 served upon the person whose extradition is requested.

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

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

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

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

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

23 (c) Whether the person is a fugitive.

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

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

1 NEW SECTION. **Sec. 6.** A place of detention facility shall
2 deliver a person in custody to the accredited agent or agents of a
3 demanding tribe without a judicial order of surrender provided that:

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

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

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

14 NEW SECTION. **Sec. 7.** An Indian tribe that requests extradition
15 pursuant to this act is responsible for the costs of extradition and
16 to arrange the transportation for the tribal fugitive from the place
17 of detention to the tribal court or detention facility. The detention
18 facility and demanding tribe are encouraged to select the means of
19 transport that best protects public safety after considering
20 available resources.

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

25 NEW SECTION. **Sec. 8.** This act is not intended to and does not
26 diminish the authority of the state or local jurisdictions to enter
27 into government-to-government agreements with Indian tribes,
28 including mutual aid and other interlocal agreements, concerning the
29 extradition of persons within their jurisdiction, does not diminish
30 the validity or enforceability of any such agreements, and is not
31 intended to and does not expand or diminish the authority of the
32 state or local jurisdictions to arrest individuals over whom they
33 have jurisdiction within Indian reservations.

34 NEW SECTION. **Sec. 9.** This chapter may be known and cited as the
35 "tribal fugitive extradition act."

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

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3 On page 1, line 2 of the title, after "jurisdiction;" strike the
4 remainder of the title and insert "and adding a new chapter to Title
5 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.

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