

SENATE BILL REPORT

ESHB 1555

As of March 20, 2023

Title: An act relating to extradition of persons to and from Indian jurisdiction.

Brief Description: Concerning extradition of persons to and from Indian jurisdiction.

Sponsors: House Committee on Community Safety, Justice, & Reentry (originally sponsored by Representatives Lekanoff, Goodman, Pollet, Davis and Doglio).

Brief History: Passed House: 3/1/23, 96-0.

Committee Activity: Law & Justice: 3/20/23.

Brief Summary of Bill

- Requires the state or a political subdivision to comply with all applicable requirements of tribal extradition law when it seeks extradition of a person from within the jurisdiction of an Indian tribe located in this state over whom the tribe has criminal jurisdiction.
- Allows an Indian tribe that permits extradition of persons from within the tribe's jurisdiction by the state or a political subdivision to request the extradition of persons subject to a tribal court warrant from state jurisdiction.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: Indian tribes are recognized as unique aggregations possessing attributes of sovereignty over both their members and their territory. They are a separate people possessing the power of regulating their internal and social relations. The several Indian nations are distinct political communities, having territorial boundaries, within which their authority is exclusive. Historically, Congress has acted upon the assumption that the states

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have no power to regulate affairs of Indians on reservations and has expressly granted jurisdiction to the states when it has desired to do so.

In 1953, Congress enacted Public Law 280 giving the consent of the United States to states that pass relevant legislation to assume jurisdiction over criminal offenses and civil causes of action on tribal lands. In 1957, Washington enacted law permitting the state to assume civil and criminal jurisdiction on tribal lands only after a request from individual Indian tribes. In 1963, the Legislature extended state jurisdiction over certain matters without prior tribal consent.

Washington State has assumed criminal jurisdiction over Indians and Indian territory. However, this assumption of jurisdiction does not apply to Indians when on their tribal lands or allotted lands within an established Indian reservation.

The governing body of a tribe may request its people and lands be subject to the criminal jurisdiction of Washington State to the full extent authorized by federal law by submitting a resolution to that effect to the Governor. The Governor must then issue a proclamation stating that such jurisdiction applies to all Indians and all Indian territory, reservations country, and lands of the Indian body involved to the same extent that the state exercises criminal jurisdiction elsewhere in the state.

Summary of Bill: Washington or any political subdivision must comply with all applicable requirements of tribal extradition law when it seeks extradition of a person over whom the tribe has criminal jurisdiction from within the jurisdiction of an Indian tribe located in this state.

An Indian tribe that permits extradition of persons from within the tribe's jurisdiction by Washington State or a political subdivision may request the extradition of persons subject to a tribal court warrant from state jurisdiction. A tribe's extradition demand must be directed to the county prosecuting attorney of the county in which the tribe is located where the person sought is thought to be located, or the Attorney General.

A tribe's written demand for extradition must be recognized if the demand is accompanied by a copy of a warrant issued for the person demanded and a criminal complaint or sworn statement made before a tribal judge substantially charging the person with a crime under tribal law, escape from confinement, or a violation of probation or parole.

Unless agreed otherwise, a tribe requesting extradition from any area under state jurisdiction must reimburse the reasonable costs of the extradition, and if any state jurisdiction requests extradition from a tribe, the state shall reimburse the tribe for reasonable costs of the extradition.

There is no intention to diminish, and the following are not diminished:

- state or local authority to enter into government-to-government agreements with

- Indian tribes concerning extradition of persons within their jurisdiction;
- the validity or enforceability of these agreements; and
 - authority of state or local jurisdictions to arrest individuals over whom they have jurisdiction within Indian reservations.

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 is about justice. It provides for extradition to and from tribal lands. The bill can impact no more than 10 tribes. We need to ensure that tribal warrants are being honored. Seven percent of the state is defined as Indian Country. Currently, many warrants for the most severe crimes committed on tribal lands are not being pursued when the person leaves tribal lands. This bill protects victims and closes a gap in the criminal justice system by bringing reciprocity between the state and tribes.

CON: While the goals of this bill are admirable, it goes about solving this issue in the wrong way. This one-size fits all will not work for every tribe in the state. Extradition should be the result of treaties between the state and the specific tribes. As this is currently written, this bill will upset the apple cart for many tribes that already have an extradition process in place.

OTHER: Typically, extradition is handled by treaty. Each tribe should be able to enter into an agreement with the Governor. There should be one state compact that individual tribes should be able to opt in or opt out of.

Persons Testifying: PRO: Representative Debra Lekanoff, Prime Sponsor; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs; Earl Cowan, Swinomish Indian Tribal Community; Melissa Simonsen, Swinomish Indian Tribal Community; Maggie Finkbonner, Swinomish Indian Tribal Community; Chief Mike Lasnier, Suquamish Tribal Police Department.

CON: Brian Kilgore, Tulalip Tribes of WA; Josh Weiss, Snohomish County.

OTHER: Russell Brown, WA Association of Prosecuting Attorneys.

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