S-0956.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5585**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Dhingra, Kauffman, Hasegawa, Lovelett, Nobles, Stanford, Valdez, and Wellman

AN ACT Relating to tribal warrants; amending RCW 10.32.070, 9A.72.010, 10.32.010, 10.32.130, 10.32.090, and 10.32.100; and adding new sections to chapter 10.32 RCW.

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

**Sec.**  RCW 10.32.070 and 2024 c 207 s 8 are each amended to read as follows:

(1) Subject to the provisions of RCW 10.32.050, a place of detention shall deliver or make available a person in custody to the noncertified tribe without a judicial order of surrender provided that:

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

((~~(2)~~)) (b) The place of detention has received from the noncertified 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 noncertified tribe and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

(2) As used in this section, "authenticated copy" means a copy of a prior waiver of extradition signed by an authorized representative of the tribal court attesting the document is a true record of the tribal court waiver of extradition.

NEW SECTION. **Sec.**  A new section is added to chapter 10.32 RCW to read as follows:

The noncertified tribe demanding the extradition of a tribal fugitive pursuant to this chapter shall have standing in any hearing in state court testing the legality of the extradition.

NEW SECTION. **Sec.**  A new section is added to chapter 10.32 RCW to read as follows:

Upon issuing a tribal warrant, the court of a certified tribe may file such warrant with the superior court of this state. Any tribal warrant so filed shall be enforced by the court and peace officers of this state as if it were an arrest warrant of the state.

NEW SECTION. **Sec.**  A new section is added to chapter 10.32 RCW to read as follows:

(1) If any person against whom a tribal warrant may be issued pursuant to this chapter shall either, before or after the issuing of such warrant, escape from or be out of the jurisdiction of the issuing tribe, the sheriff or other officer to whom such warrant may be directed may pursue and apprehend the party charged, in any county in the state, and for that purpose may command aid and exercise the same authority as in the officer's own county.

(2) If a person arrested escapes or is rescued, the person from whose custody they made their escape, or was rescued, may immediately pursue and retake them at any time, and within any place in the state. To retake the person escaping or rescued, the person pursuing has the same power to command assistance as given in cases of arrest.

(3) The governor may appoint agents to make a demand upon the executive authority of any state or territory for the surrender of any fugitive from justice, or any other person charged with a felony or any other crime in this state. Whenever an application shall be made to the governor for the appointment of an agent, he or she may require the official submitting the same to provide whatever information is necessary prior to approval of the application.

**Sec.**  RCW 9A.72.010 and 2019 c 232 s 10 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding;

(2) "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this chapter, written statements shall be treated as if made under oath if:

(a) The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable;

(b) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he or she made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or

(c) It is a statement, declaration, verification, or certificate, made within or outside the state of Washington, which is declared to be true under penalty of perjury as provided in chapter 5.50 RCW or under the code of any federally recognized tribe.

(3) An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute or regulatory provision or when the oath is administered by a person authorized by state, a federally recognized tribe, or federal law to administer oaths;

(4) "Official proceeding" means a proceeding heard before any state, federally recognized tribal, or federal legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any tribal court, referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions;

(5) "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of this state, or tribal court, or by any public servant authorized by law to impanel a jury; the term juror also includes any person who has been drawn or summoned to attend as a prospective juror;

(6) "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding;

(7) "Tribal" means a federally recognized Indian tribe as defined by 25 U.S.C. Sec. 1301;

(8) "Tribal court" means an Indian court as defined by 25 U.S.C. Sec. 1301;

(9) "Tribal law" means the Constitution, codes, ordinance, regulations, case law, and customary law of a federally recognized tribe.

**Sec.**  RCW 10.32.010 and 2024 c 207 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Noncertified tribe" means a federally recognized tribe located 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, but has not received approval to exercise jurisdiction under the tribal law and order act of 2010, section 234, codified at 25 U.S.C. Sec. 1302, and which has agreed by treaty or practice not to shelter or conceal offenders against the laws of the state of Washington but to deliver them up to state authorities for prosecution.

(2) "Certified tribe" means a federally recognized tribe located within the borders of the state of Washington that (a) may impose a term of imprisonment of greater than one year, or a fine greater than $5,000, or both, pursuant to the tribal law and order act of 2010, section 234, codified at 25 U.S.C. Sec. 1302; and (b) has agreed not to shelter or conceal offenders against the laws of the state of Washington but to deliver them up to state authorities for prosecution.

(3) "Peace officer" has the same meaning as in RCW 10.93.020(4).

(4) "Place of detention" means a jail as defined in RCW 70.48.020, a correctional facility as defined in RCW 72.09.015, and any similar adult facility contracted by a city or county.

(5) "Tribal court judge" includes every judicial officer authorized alone or with others, to hold or preside over the criminal court of a certified tribe or noncertified tribe.

(6) "Tribal fugitive" or "fugitive" means any person who is subject to tribal court criminal jurisdiction, committed an alleged crime under the tribal code, and thereafter fled tribal jurisdiction, including by escaping or evading confinement, breaking the terms of their probation, bail, or parole, or absenting themselves from the jurisdiction of the tribal court.

(7) "Tribal police officer" has the same meaning as in RCW 10.92.010.

**Sec.**  RCW 10.32.130 and 2024 c 207 s 14 are each amended to read as follows:

(1) A peace officer ((~~or a peace~~)) as defined in RCW 43.101.010, limited authority Washington peace officer as defined in RCW 10.93.020, specially commissioned Washington peace officer as defined in RCW 10.93.020, or local or state corrections officer as defined in RCW 43.101.010 or such officer's legal advisor may not be held criminally or civilly liable for making an arrest under chapter 207, Laws of 2024 if the peace officer or the peace officer's legal advisor acted in good faith and without malice.

(2) Chapter 207, Laws of 2024 is not intended to limit, abrogate, or modify existing immunities for prosecuting attorneys for good faith conduct consistent with statutory duties.

**Sec.**  RCW 10.32.090 and 2024 c 207 s 10 are each amended to read as follows:

(1) A peace officer may arrest a person subject to a tribal arrest warrant from a noncertified tribe when the warrant is presented by a tribal court representative or tribal law enforcement officer to the peace officer or a general authority Washington law enforcement agency as defined in RCW 10.93.020 or entered in the national crime information center ((~~interstate identification index~~)) or Washington information center. The arrested person must be brought to an appropriate place of detention and then to the nearest available superior court judge ((~~without unnecessary delay~~)) the next judicial day. The superior court judge shall issue an order continuing custody upon presentation of the tribal arrest warrant.

(2) The judge shall inform the person appearing under subsection (1) of this section of the name of the noncertified tribe that has subjected the person to an arrest warrant, the basis of the arrest warrant, the right to assistance of counsel, and the right to require a judicial hearing before transfer of custody to the applicable noncertified tribe.

(3) After being informed by the judge of the effect of a waiver, the arrested person may waive the right to require a judicial hearing and consent to return to the applicable noncertified tribe by executing a written waiver. If the waiver is executed, the judge shall issue an order to transfer custody under subsection (5) of this section or, with consent of the applicable noncertified tribe, authorize the voluntary return of the person to that tribe.

(4) If a hearing is not waived under subsection (3) of this section, the court shall hold a hearing within ((~~three days~~)) 72 hours, excluding weekends and holidays, after the initial appearance. The arrested person and the prosecuting attorney's office shall be informed of the time and place of the hearing. The court shall release the person upon conditions that will reasonably assure availability of the person for the hearing or direct a peace officer to maintain custody of the person until the time of the hearing. Following the hearing, the judge shall issue an order to transfer custody under subsection (5) of this section unless the arrested person established by clear and convincing evidence that the arrested person is not the person identified in the warrant. If the court does not order transfer of custody, the judge shall order the arrested person to be released.

(5) A judicial order to transfer custody issued under subsection (4) of this section shall be directed to a peace officer to take or retain custody of the person until a representative of the applicable noncertified tribe is available to take custody. If the noncertified tribe has not taken custody ((~~with [within]~~)) within three days, excluding weekends and holidays, the court may order the release of the person upon conditions that will assure the person's availability on a specified date ((~~with [within]~~)) within seven days. If the noncertified tribe has not taken custody within the time specified in the order, the person shall be released. Thereafter, an order to transfer custody may be entered only if a new arrest warrant is issued. The court may authorize the voluntary return of the person with the consent of the applicable noncertified tribe.

**Sec.**  RCW 10.32.100 and 2024 c 207 s 11 are each amended to read as follows:

(1) Any arrest warrant issued by the court of a certified tribe shall be accorded full faith and credit by the courts of the state of Washington and enforced by the court and peace officers of the state as if it were the arrest warrant of the state. A Washington state peace officer who arrests a person pursuant to the arrest warrant of a certified tribe, if no other grounds for detention exist under state law, shall, as soon as practical after detaining the person, and in accordance with standard practices, contact the tribal law enforcement agency that issued the warrant to establish the warrant's validity.

(2) A place of detention shall allow a certified tribe to place a detainer on an inmate based on a tribal warrant. For the purposes of this section, detainer means a request by a certified tribe's tribal court, tribal police department, or tribal prosecutor's office, filed with the place of detention in which a person is incarcerated, to hold the person for the certified tribe and to notify the tribe when release of the person is imminent so that the person can be transferred to tribal custody within 72 hours of their release from all other holds.

(3) The privilege of the writ of habeas corpus shall be available to any person detained under this provision. The issues in the habeas corpus proceeding shall be limited to those identified in RCW 10.32.060 (4) and (5).

**--- END ---**