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ENGROSSED SUBSTITUTE HOUSE BILL 1829

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State of Washington

69th Legislature

2025 Regular Session

By House Community Safety (originally sponsored by Representatives Lekanoff, Goodman, and Pollet)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to tribal warrants; amending RCW 10.32.070,  
2 9A.72.010, 10.32.010, 10.32.130, 10.32.090, and 10.32.100; and adding  
3 new sections to chapter 10.32 RCW.

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

5 **Sec. 1.** RCW 10.32.070 and 2024 c 207 s 8 are each amended to  
6 read as follows:

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

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

14 ~~((2))~~ (b) The place of detention has received from the  
15 noncertified tribe an authenticated copy of a prior waiver of  
16 extradition signed by such person as a term of his or her probation,  
17 parole, bail, or any other release of the noncertified tribe and  
18 photographs or fingerprints or other evidence properly identifying  
19 the person as the person who signed the waiver.

20 (2) As used in this section, "authenticated copy" means a copy of  
21 a prior waiver of extradition signed by an authorized representative

1 of the tribal court attesting the document is a true record of the  
2 tribal court waiver of extradition.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.32  
4 RCW to read as follows:

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

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.32  
9 RCW to read as follows:

10 (1) Upon issuing a tribal warrant, the court of a tribe may file  
11 such warrant with the superior court of the county in which the tribe  
12 is physically located along with:

13 (a) A certified copy of the charging document;

14 (b) The tribal code provision, constitutional provision, or  
15 federal statute authorizing the certified tribe to exercise criminal  
16 jurisdiction over the tribal fugitive for whom the tribal warrant has  
17 been issued; and

18 (c) Identifying information for the tribal fugitive.

19 (2) A warrant so filed shall be timely reviewed by a superior  
20 court. If the court makes a finding of probable cause that a tribal  
21 fugitive subject to a filed tribal warrant has been charged with a  
22 crime by the filing tribe, the court must order the issuance of a  
23 state warrant of arrest for such tribal fugitive from justice under  
24 section 4 of this act, which shall expire six months after issuance,  
25 unless withdrawn earlier under subsection (4) of this section.

26 (3) Any judicial proceedings involving a tribal fugitive subject  
27 to a warrant filed under this section must occur in the county where  
28 the tribal fugitive is first detained.

29 (4) A warrant filed under this section must be withdrawn once the  
30 person who is the subject of the tribal warrant has submitted to the  
31 tribe's tribal court jurisdiction or been arrested.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.32  
33 RCW to read as follows:

34 Whenever any person within this state shall be charged on the  
35 oath of any credible person before any judge or magistrate of this  
36 state with the commission of any crime by any federally recognized  
37 tribe with territory located within the borders of the state of

1 Washington and with having fled from justice, or with having been  
2 convicted of a crime by any federally recognized tribe with territory  
3 located in the state of Washington and having escaped from  
4 confinement, or having broken the terms of such person's bail,  
5 probation, or parole, or whenever complaint shall have been made  
6 before any judge or magistrate in this state setting forth on the  
7 affidavit of any credible person of a federally recognized tribe with  
8 territory within this state that a crime has been committed for which  
9 the tribe has criminal jurisdiction and that the accused has been  
10 charged by such tribe with the commission of the crime, and has fled  
11 from justice, or with having been convicted of a crime in that  
12 tribe's courts and having escaped from confinement, or having broken  
13 the terms of such person's bail, probation, or parole and is believed  
14 to be in this state, the judge or magistrate shall issue a warrant  
15 directed to any peace officer commanding such officer to apprehend  
16 the person named therein, wherever such person may be found in this  
17 state, and to bring such person before the same or any other judge,  
18 magistrate, or court who or which may be available in or convenient  
19 of access to the place where the arrest may be made, to answer the  
20 charge or complaint and affidavit, and a certified copy of the sworn  
21 charge or complaint and affidavit upon which the warrant is issued  
22 shall be attached to the warrant.

23 **Sec. 5.** RCW 9A.72.010 and 2019 c 232 s 10 are each amended to  
24 read as follows:

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

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

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

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

38 (b) The statement recites that it was made under oath, the  
39 declarant was aware of such recitation at the time he or she made the

1 statement, intended that the statement should be represented as a  
2 sworn statement, and the statement was in fact so represented by its  
3 delivery or utterance with the signed jurat of an officer authorized  
4 to administer oaths appended thereto; or

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

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

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

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

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

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

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

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

35 **Sec. 6.** RCW 10.32.010 and 2024 c 207 s 2 are each amended to  
36 read as follows:

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

1 (1) "Noncertified tribe" means a federally recognized tribe  
2 located within the borders of the state of Washington that is  
3 requesting that a tribal fugitive be surrendered to the duly  
4 authorized agent of the tribe, but has not received approval to  
5 exercise jurisdiction under the tribal law and order act of 2010,  
6 section 234, codified at 25 U.S.C. Sec. 1302, and which has agreed by  
7 treaty or practice not to shelter or conceal offenders against the  
8 laws of the state of Washington but to deliver them up to state  
9 authorities for prosecution.

10 (2) "Certified tribe" means a federally recognized tribe located  
11 within the borders of the state of Washington that (a) may impose a  
12 term of imprisonment of greater than one year, or a fine greater than  
13 \$5,000, or both, pursuant to the tribal law and order act of 2010,  
14 section 234, codified at 25 U.S.C. Sec. 1302; and (b) has agreed not  
15 to shelter or conceal offenders against the laws of the state of  
16 Washington but to deliver them up to state authorities for  
17 prosecution.

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

19 (4) "Place of detention" means a jail as defined in RCW  
20 70.48.020, a correctional facility as defined in RCW 72.09.015, and  
21 any similar adult facility contracted by a city or county.

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

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

31 (7) "Tribal police officer" has the same meaning as in RCW  
32 10.92.010.

33 **Sec. 7.** RCW 10.32.130 and 2024 c 207 s 14 are each amended to  
34 read as follows:

35 (1) A peace officer (~~(or a peace)~~) as defined in RCW 43.101.010,  
36 limited authority Washington peace officer as defined in RCW  
37 10.93.020, specially commissioned Washington peace officer as defined  
38 in RCW 10.93.020, local or state corrections officer as defined in  
39 RCW 43.101.010, jail as defined in RCW 70.48.020, or such officer's

1 or jail facility's legal advisor may not be held criminally or  
2 civilly liable for making an arrest or not making an arrest under  
3 chapter 207, Laws of 2024 if the peace officer or the peace officer's  
4 legal advisor acted in good faith and without malice.

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

8 **Sec. 8.** RCW 10.32.090 and 2024 c 207 s 10 are each amended to  
9 read as follows:

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

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

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

34 (4) If a hearing is not waived under subsection (3) of this  
35 section, the court shall hold a hearing within (~~((three days))~~) 72  
36 hours, excluding weekends and holidays, after the initial appearance.  
37 The arrested person and the prosecuting attorney's office shall be  
38 informed of the time and place of the hearing. The court shall  
39 release the person upon conditions that will reasonably assure

1 availability of the person for the hearing or direct a peace officer  
2 to maintain custody of the person until the time of the hearing.  
3 Following the hearing, the judge shall issue an order to transfer  
4 custody under subsection (5) of this section unless the arrested  
5 person established by clear and convincing evidence that the arrested  
6 person is not the person identified in the warrant. If the court does  
7 not order transfer of custody, the judge shall order the arrested  
8 person to be released.

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

22 **Sec. 9.** RCW 10.32.100 and 2024 c 207 s 11 are each amended to  
23 read as follows:

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

34 (2) A place of detention shall allow a certified tribe to place a  
35 detainer on an inmate based on a tribal warrant. For the purposes of  
36 this section, detainer means a request by a certified tribe's tribal  
37 court, tribal police department, or tribal prosecutor's office, filed  
38 with the place of detention in which a person is incarcerated, to  
39 hold the person for the certified tribe and to notify the tribe when

1 release of the person is imminent so that the person can be  
2 transferred to tribal custody within 72 hours of their release from  
3 all other holds.

4 (3) The privilege of the writ of habeas corpus shall be available  
5 to any person detained under this provision. The issues in the habeas  
6 corpus proceeding shall be limited to those identified in RCW  
7 10.32.060 (4) and (5).

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