

# FINAL BILL REPORT

## EHB 2476

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Synopsis as Enacted

**Brief Description:** Authorizing tribal police officers to act as general authority Washington state peace officers.

**Sponsors:** By Representatives McCoy, Simpson, Lantz, Appleton, O'Brien, Kenney, Sells, Moeller, Hudgins, Dunn, Upthegrove and Chase.

**House Committee on State Government & Tribal Affairs**

**Senate Committee on Judiciary**

### **Background:**

#### General Authority State Peace Officers.

A general authority Washington State Peace Officer is any officer of a general authority law enforcement agency in the state, including those of local governments, the state patrol, and the Department of Fish and Wildlife. General authority peace officers may enforce criminal or traffic laws of the state throughout the territorial boundaries in the following circumstances:

- under the auspices of an inter-local agreement;
- in response to an emergency involving immediate threat to human life or property;
- in response to a request for assistance pursuant to a law enforcement assistance agreement;
- when transporting prisoners;
- when executing an arrest warrant or search warrant; or
- when in fresh pursuit.

#### Tribal Police Officer Certification.

In 2006 a law was enacted allowing tribal police officers to voluntarily obtain Washington police officer certification through the state's Criminal Justice Training Commission (CJTC). Officers making this certification must meet the statutory requirements for all certified state police officers, including submitting to psychological tests and criminal background checks. Applications by tribal law enforcement agencies for police officer certification are processed in the same manner as any state application.

To participate in this program, tribal governments must enter into a written agreement with the CJTC. The written agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as they are applied to state general authority peace officers.

#### Public Law 280.

Public Law 280 (PL 280) is a federal law whereby states may assume jurisdiction over Indian reservations. The law mandates transfer of federal law enforcement authority within certain

tribal governments to state government. Participating states are specified in statute; Washington was added to the federal statute at a later date.

Pursuant to Washington's assumption of jurisdiction in statute, the state assumes criminal and civil jurisdiction over Indian Country except over Indians on tribal or allotted lands within an established reservation. The state has complete jurisdiction in eight areas: compulsory school attendance; public assistance; domestic relations; mental illness; juvenile delinquency; adoption proceedings; dependent children; and the operation of motor vehicles on public streets, roads, alleys, and highways.

In Washington, the Muckleshoot, Squaxin, Nisqually, and Skokomish tribes have requested full state civil and criminal and adjudicatory authority in Indian Country. After 1968 Congress amended PL 280 so that tribal consent is required for the state to extend jurisdiction. This applies to the Jamestown S'Klallam, Nooksack, Upper Skagit, Stillaguamish, Sauk-Suiattle, Samish, Cowlitz, and Snoqualmie Tribes, and to Cook's Landing. The Samish and Cowlitz currently do not have reservations.

The remaining tribes are partial-PL 280 tribes: Chehalis, Colville, Yakama, Hoh, Kalispell, Lower Elwha, Lummi, Makah, Port Gamble S'Klallam, Puyallup, Quileute, Quinault, Shoalwater Bay, Spokane, Suquamish, Swinomish, Tulalip, and Upper Skagit. Partial-PL 280 tribes have their own tribal governments including comprehensive court systems and codes and law enforcement agencies.

#### Criminal Jurisdiction in Indian Country.

In Washington, criminal jurisdiction on Indian reservations is based partly on whether the tribe has PL 280 status, the status of the individual parcels of the land, and whether the individual in question is Indian or non-Indian. County or city law enforcement maintains jurisdiction over fee land within the reservation and, generally speaking, over non-Indians within the exterior boundaries of the reservation. Under federal law, tribal law enforcement generally has jurisdiction over Indians in Indian Country but not over non-Indians.

#### **Summary:**

Tribal police officers are authorized to act as general authority Washington State Peace Officers when the appropriate tribal government meets specified requirements regarding certification, insurance liability, and administration. The appropriate tribal government must submit proof of the required certification and other information to the Office of Financial Management (OFM) for review and verification. Only when this information has been provided to the OFM are the tribal police officers authorized to act as general authority Washington State Peace Officers. The authority is granted only within the exterior boundaries of the reservation or outside the exterior boundaries of the reservation pursuant to statute: with consent of the local sheriff; in response to an emergency involving threat to human life or property; in response to a request for assistance pursuant to a mutual law enforcement assistance agreement; when transporting a prisoner; when the officer is executing an arrest or search warrants; or when an officer is in fresh pursuit.

#### Certification.

For a tribal police officer to be authorized as a general authority Washington State Peace Officer he or she must be certified pursuant to statute. The appropriate tribal law enforcement agency must have a written agreement with the CJTC and have submitted its police officers seeking certification to the same requirements as the state's certified peace officers.

The Criminal Justice Training Commission must notify the OFM in the event a tribal police officer authorized under this section is decertified or if a participating tribal government is otherwise in noncompliance with statutory requirements.

Insurance Liability.

Tribal governments must carry liability insurance and waive sovereign immunity to the extent of such coverage so as to allow a civil action for damages in the event a tribal police officer acting in the capacity of a state peace officer commits a tort. The OFM will have discretion to determine the adequacy of coverage based on its own risk management analysis.

Inter-Local Requirements.

Authorized tribal police officers acting in the capacity of a state peace officer must submit copies of any citation, notice of infraction, or any incident report to the appropriate local police chief or sheriff within three days. Any citations must be to Washington courts, except that any Indian cited within the exterior boundaries of the reservation may be cited to tribal court. Any citation that does not follow these requirements is unenforceable.

**Votes on Final Passage:**

House	58	37	
Senate	34	15	(Senate amended)
House	62	32	(House concurred)

**Effective:** July 1, 2008