

HOUSE BILL REPORT

SB 5848

As Reported By House Committee On:
Law & Justice

Title: An act relating to retrocession of criminal jurisdiction.

Brief Description: Providing for retrocession of criminal jurisdiction by the Tulalip Tribe.

Sponsors: Senator Smith.

Brief History:

Committee Activity:

Law & Justice: 3/21/95, 3/24/95 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Bill Perry (786-7123).

Background: Under authorization of federal law, Washington State in 1963 assumed criminal and civil jurisdiction over Indians and Indian lands within the state. The federal law also permits a state to retrocede jurisdiction back to an Indian tribe and the federal government.

Under retrocession, the federal government rather than the tribe has jurisdiction over so-called major crimes committed by Indians on Indian lands. Major crimes under the federal law include homicide, assault, rape, kidnapping, arson, burglary, and robbery, among other felonies.

Retrocession requires agreement among the state, the tribe, and the federal government. Once the Legislature authorizes retrocession, the affected tribe must send the Governor a resolution requesting retrocession. If the Governor decides to authorize retrocession, he or she must do so by issuing a proclamation within 90 days

of receipt of the tribal resolution. Once the federal government accepts the proclamation, retrocession is effective.

Over the past nine years, five tribes in Washington have sought and received retrocession of state jurisdiction over criminal acts by Indians committed on tribal lands. These tribes are the Quileute, Chehalis, Skokomish, and Swinomish Tribes, and the Colville Confederated Tribes of Washington.

Tribes that remain subject to state jurisdiction may enter into arrangements with local law enforcement agencies for providing law enforcement on tribal lands. However, tribes subject to full state criminal jurisdiction are not eligible for federal money for law enforcement. Some local agencies have experienced financial difficulty in continuing to participate in law enforcement on tribal lands. Those tribes that have sought and received retrocession of state jurisdiction have become eligible for federal funding for law enforcement.

Summary of Bill: Under the provisions of federal law, the state retrocedes criminal jurisdiction to the Tulalip Tribe. The retrocession applies only to crimes committed by Indians on tribal lands.

The Tulalip Tribe is authorized to pass a resolution asking the Governor to issue a proclamation retroceding criminal jurisdiction. Retrocession becomes effective if accepted by the federal government.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will allow the tribe to take responsibility for its own members while making additional federal funding available for law enforcement.

Testimony Against: None.

Testified: Stan Jones, Chairman, Tulalip Tribes (pro).