

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2233

62nd Legislature
2012 Regular Session

Passed by the House March 6, 2012
Yeas 59 Nays 38

Speaker of the House of Representatives

Passed by the Senate March 5, 2012
Yeas 42 Nays 6

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2233** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2233

AS AMENDED BY THE SENATE

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representatives McCoy, Hunt, Haigh, Pedersen, Appleton, Morris, Billig, Fitzgibbon, Eddy, Sells, Tharinger, Jinkins, Hasegawa, Pollet, Wylie, Upthegrove, and Roberts)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to creating a procedure for the state's
2 retrocession of civil and criminal jurisdiction over Indian tribes and
3 Indian country; and adding new sections to chapter 37.12 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 37.12 RCW
6 to read as follows:

7 (1) The process by which the state may retrocede to the United
8 States all or part of the civil and/or criminal jurisdiction previously
9 acquired by the state over a federally recognized Indian tribe, and the
10 Indian country of such tribe, must be accomplished in accordance with
11 the requirements of this section.

12 (2) To initiate civil and/or criminal retrocession the duly
13 authorized governing body of a tribe must submit a retrocession
14 resolution to the governor accompanied by information about the tribe's
15 plan regarding the tribe's exercise of jurisdiction following the
16 proposed retrocession. The resolution must express the desire of the
17 tribe for the retrocession by the state of all or any measures or
18 provisions of the civil and/or criminal jurisdiction acquired by the
19 state under this chapter over the Indian country and the members of

1 such Indian tribe. Before a tribe submits a retrocession resolution to
2 the governor, the tribe and affected municipalities are encouraged to
3 collaborate in the adoption of interlocal agreements, or other
4 collaborative arrangements, with the goal of ensuring that the best
5 interests of the tribe and the surrounding communities are served by
6 the retrocession process.

7 (3) Upon receiving a resolution under this section, the governor
8 must within ninety days convene a government-to-government meeting with
9 either the governing body of the tribe or duly authorized tribal
10 representatives for the purpose of considering the tribe's retrocession
11 resolution. The governor's office must consult with elected officials
12 from the counties, cities, and towns proximately located to the area of
13 the proposed retrocession.

14 (4) Within one year of the receipt of an Indian tribe's
15 retrocession resolution the governor must issue a proclamation, if
16 approving the request either in whole or in part. This one-year
17 deadline may be extended by the mutual consent of the tribe and the
18 governor, as needed. In addition, either the tribe or the governor may
19 extend the deadline once for a period of up to six months. Within ten
20 days of issuance of a proclamation approving the retrocession
21 resolution, the governor must formally submit the proclamation to the
22 federal government in accordance with the procedural requirements for
23 federal approval of the proposed retrocession. In the event the
24 governor denies all or part of the resolution, the reasons for such
25 denial must be provided to the tribe in writing.

26 (5) Within one hundred twenty days of the governor's receipt of a
27 tribe's resolution requesting civil and/or criminal retrocession, but
28 prior to the governor's issuance of the proclamation approving or
29 denying the tribe's resolution, the appropriate standing committees of
30 the state house and senate may conduct public hearings on the tribe's
31 request for state retrocession. The majority leader of the senate must
32 designate the senate standing committee and the speaker of the house of
33 representatives must designate the house standing committee. Following
34 such public hearings, the designated legislative committees may submit
35 advisory recommendations and/or comments to the governor regarding the
36 proposed retrocession, but in no event are such legislative
37 recommendations binding on the governor or otherwise of legal effect.

1 (6) The proclamation for retrocession does not become effective
2 until it is approved by a duly designated officer of the United States
3 government and in accordance with the procedures established by the
4 United States for the approval of a proposed state retrocession.

5 (7) The provisions of RCW 37.12.010 are not applicable to a civil
6 and/or criminal retrocession that is accomplished in accordance with
7 the requirements of this section.

8 (8) For any proclamation issued by the governor under this section
9 that addresses the operation of motor vehicles upon the public streets,
10 alleys, roads, and highways, the governor must consider the following:

11 (a) Whether the affected tribe has in place interlocal agreements
12 with neighboring jurisdictions, including applicable state
13 transportation agencies, that address uniformity of motor vehicle
14 operations over Indian country;

15 (b) Whether there is a tribal traffic policing agency that will
16 ensure the safe operation of motor vehicles in Indian country;

17 (c) Whether the affected tribe has traffic codes and courts in
18 place; and

19 (d) Whether there are appropriate traffic control devices in place
20 sufficient to maintain the safety of the public roadways.

21 (9) The following definitions apply for the purposes of this
22 section:

23 (a) "Civil retrocession" means the state's act of returning to the
24 federal government the civil jurisdiction acquired over Indians and
25 Indian country under federal Public Law 280, Act of August 15, 1953, 67
26 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25 U.S.C. Secs.
27 1321-1326, and 28 U.S.C. Sec. 1360);

28 (b) "Criminal retrocession" means the state's act of returning to
29 the federal government the criminal jurisdiction acquired over Indians
30 and Indian country under federal Public Law 280, Act of August 15,
31 1953, 67 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25
32 U.S.C. Secs. 1321-1326, and 28 U.S.C. Sec. 1360);

33 (c) "Indian tribe" means any federally recognized Indian tribe,
34 nation, community, band, or group;

35 (d) "Indian country" means:

36 (i) All land within the limits of any Indian reservation under the
37 jurisdiction of the United States government, notwithstanding the

1 issuance of any patent, and including rights-of-way running through the
2 reservation;

3 (ii) All dependent Indian communities with the borders of the
4 United States whether in the original or subsequently acquired
5 territory thereof, and whether within or without the limits of a state;
6 and

7 (iii) All Indian allotments, the Indian titles to which have not
8 been extinguished, including rights-of-way running through the same.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 37.12 RCW
10 to read as follows:

11 A civil or criminal retrocession accomplished pursuant to the
12 procedure set forth in section 1 of this act does not:

13 (1) Affect the state's civil jurisdiction over the civil commitment
14 of sexually violent predators pursuant to chapter 71.09 RCW and the
15 state must retain such jurisdiction notwithstanding the completion of
16 the retrocession process authorized under section 1 of this act; and

17 (2) Abate any action or proceeding which has been filed with any
18 court or agency of the state or local government preceding the
19 effective date of the completion of a retrocession authorized under
20 section 1 of this act.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 37.12 RCW
22 to read as follows:

23 (1) The provisions of section 1 of this act do not affect the
24 validity of any retrocession procedure commenced under RCW 37.12.100
25 through 37.12.140 prior to the effective date of this section.

26 (2) Any Indian tribe that has commenced but not completed the
27 retrocession procedure authorized in RCW 37.12.100 through 37.12.140
28 may request retrocession under section 1 of this act in lieu of
29 completing that procedure.

30 (3) Any Indian tribe that has completed the retrocession procedure
31 authorized in RCW 37.12.100 through 37.12.140 may use the process
32 authorized under section 1 of this act to request retrocession of any
33 civil or criminal jurisdiction retained by the state under RCW
34 37.12.120 or 37.12.010.

35 (4) The provisions of RCW 37.12.120 are not applicable to a civil

1 and/or criminal retrocession that is accomplished in accordance with
2 the requirements of section 1 of this act.

--- END ---