

Chapter 10.32 RCW
TRIBAL WARRANTS

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RCW 10.32.005 Findings—Intent—Purpose—2024 c 207. (Effective July 1, 2025.) The legislature recognizes that the 29 federally recognized Indian tribes with territory inside the state of Washington have a shared interest with the state in public safety, and that continued and expanded cooperation with tribal justice systems will promote that interest. The legislature also recognizes that tribes have, for decades, agreed by treaty and through practice not to shelter or conceal those individuals who violate state law and to surrender them to the state for prosecution. In the interests of public safety and partnership, it is therefore the intent of the legislature to create uniform processes by which the state may consistently reciprocate with tribes the return of those individuals who violate tribal law and seek to avoid tribal justice systems by leaving tribal jurisdiction.

The legislature further recognizes it is a constitutional imperative that individuals alleged to have violated criminal laws are afforded the fullest protections of due process including, but not limited to: (1) The right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; (2) the right of an indigent defendant to the assistance of a licensed defense attorney, at the expense of the tribal government; (3) the right to a criminal proceeding presided over by a judge who is licensed to practice law and has sufficient legal training; (4) the right to have access, prior to being charged, to the tribe's criminal laws, rules of evidence, and rules of criminal procedure; and (5) the right to a record of the criminal proceeding, including an audio or other recording of the trial proceeding. The legislature finds that numerous federally recognized tribes with territory inside the state have systems and processes recognized by the federal government as providing due process to defendants at least equal to those required by the United States Constitution. The legislature also finds that all defendants in tribal courts have the right to petition for a writ of habeas corpus.

The legislature additionally recognizes the importance of establishing clear statutory duties when directing peace officers of this state to effectuate new aspects of their work. It is the intent of the legislature that chapter 207, Laws of 2024 set forth procedures by which peace officers and correctional staff of this state must recognize and effectuate tribal arrest warrants.

Therefore, the legislature declares the purpose of chapter 207, Laws of 2024 is to expand cross-jurisdictional cooperation so that fugitives from tribal courts cannot evade justice by remaining off reservation in Washington's counties and cities, while ensuring that defendants receive the fullest due process protections. [2024 c 207 s 1.]

RCW 10.32.007 Short title. (Effective July 1, 2025.) This chapter may be known and cited as the "tribal warrants act." [2024 c 207 s 15.]

RCW 10.32.010 Definitions. (Effective July 1, 2025.) 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 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. [2024 c 207 s 2.]

RCW 10.32.020 Certification—Tribes. (Effective July 1, 2025.)

A certified tribe must provide certification of RCW 10.32.010(2) (a) and (b), signed by the tribe's judicial officer and chief legal counsel, to the office of the attorney general. The office of the attorney general shall receive the certification documentation indicating that the tribe meets the requirements of the tribal law and order act of 2010 section 234, codified at 25 U.S.C. Sec. 1302, and review the documentation to confirm that it is complete according to the information provided in the documentation. The office of the attorney general shall be immune from liability arising out of the performance of duties under this section, except their intentional or willful misconduct. [2024 c 207 s 3.]

RCW 10.32.030 Noncertified tribes—Detention—Notice. (Effective July 1, 2025.) A place of detention shall provide notice to the tribal law enforcement within the jurisdiction of a noncertified tribe who issued an arrest warrant for a tribal fugitive as soon as practicable after learning that the tribal fugitive is a prisoner in the place of detention. The notice shall include the reason for the detention and the anticipated date of release, if known. [2024 c 207 s 4.]

RCW 10.32.040 Noncertified tribes—Demand—Extradition. (Effective July 1, 2025.) The noncertified tribe whose court issued the warrant of arrest may demand the extradition of the tribal fugitive from a place of detention. The demand will be recognized if in writing, it alleges that the person is a tribal fugitive, the tribal court has jurisdiction, and is accompanied by either:

(1) A copy of the complaint, information, or other charging document supported by affidavit of the tribe having jurisdiction of the crime;

(2) A copy of an affidavit made before an authorized representative of the tribal court, together with a copy of any warrant which was issued thereupon; or

(3) A copy of a judgment of conviction or of a sentence imposed in execution thereof. [2024 c 207 s 5.]

RCW 10.32.050 Tribal fugitive—Criminal prosecution pending. (Effective July 1, 2025.) If a criminal prosecution has been instituted against a tribal fugitive under the laws of this state or any political subdivision thereof and is still pending, extradition on a tribal court request under RCW 10.32.030 through 10.32.090 shall be placed on hold until the tribal fugitive's release from a place of detention, unless otherwise agreed upon in any given case. [2024 c 207 s 6.]

RCW 10.32.060 Noncertified tribes—Order of surrender. (Effective July 1, 2025.) (1) The attorney general or prosecuting attorney shall submit all applicable documents specified in RCW 10.32.030 to a superior court judge in this state along with a motion for an order of surrender. The motion for an order of surrender shall be served upon the person whose extradition is demanded.

(2) A person who is served with a motion for an order of surrender shall be taken before a superior court judge in this state the next judicial day. The judge shall inform the person of the demand made for the person's surrender and the underlying reason for the demand, and that the person has the right to demand and procure legal counsel.

(3) The person whose return is demanded may, in the presence of any superior court judge, sign a statement that the person consents to his or her return to the noncertified tribe. However, before such waiver may be executed, it shall be the duty of such judge to inform the person of his or her right to test the legality of the extradition request before an order of surrender may be issued.

(4) Any hearing to test the legality of the extradition request shall occur within three judicial days, excluding weekends and holidays, of the person receiving notice of the motion for an order of surrender. The hearing is limited to determining:

(a) Whether the person has been charged with or convicted of a crime by the noncertified tribe;

(b) Whether the person before the court is the person named in the request for extradition; and

(c) Whether the person is a fugitive.

(5) The guilt or innocence of the person as to the crime of which the person is charged may not be inquired into by a superior court judge except as it may be necessary to identify the person held as being the person charged with the crime.

(6) If the superior court judge determines that the requirements of subsection (4) of this section and RCW 10.32.030 have been met, the judge shall issue an order of surrender to the noncertified tribe. If the noncertified tribe does not take custody of the person pursuant to the order of surrender on the date the person is scheduled to be released from the place of detention or within 48 hours of the entry of the order of surrender, whichever is later, the person may be released from custody with bail conditioned on the person's appearance before the court at a time specified for his or her surrender to the noncertified tribe or for the vacation of the order of surrender.

[2024 c 207 s 7.]

RCW 10.32.070 Noncertified tribes—Persons in custody.

(Effective July 1, 2025.) 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) 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) 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. [2024 c 207 s 8.]

RCW 10.32.080 Noncertified tribes—Fugitive transport.

(Effective July 1, 2025.) (1) A noncertified tribe that requests

extradition pursuant to chapter 207, Laws of 2024 is responsible to arrange the transportation for the tribal fugitive from the place of detention to the tribal court or detention facility. The detention facility and noncertified tribe are encouraged to select the means of transport that best protects public safety after considering available resources. At the request of a noncertified tribe, a city, county, or the governor must engage in good faith efforts to negotiate an agreement to effectuate this subsection.

(2) A tribal court representative who is certified as a general authority Washington peace officer under chapter 10.92 RCW, or who is cross-deputized pursuant to chapter 10.93 RCW, may transport a tribal fugitive within the state of Washington pursuant to an order of surrender. [2024 c 207 s 9.]

RCW 10.32.090 Noncertified tribes—Judicial hearing. (Effective July 1, 2025.) (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. 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 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, 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] 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] 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. [2024 c 207 s 10.]

RCW 10.32.100 Certified tribes—Procedure for tribal warrants. (Effective July 1, 2025.) (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.

(3) The privilege of the writ of habeas corpus shall be available to any person detained under this provision. [2024 c 207 s 11.]

RCW 10.32.110 Authority of the state or local jurisdictions. (Effective July 1, 2025.) Chapter 207, Laws of 2024 is not intended to and does not diminish the authority of the state or local jurisdictions to enter into government-to-government agreements with Indian tribes, including mutual aid and other interlocal agreements, concerning the movement of persons within their jurisdiction, does not diminish the validity or enforceability of any such agreements, and is not intended to and does not expand or diminish the authority of the state or local jurisdictions to arrest individuals over whom they have jurisdiction within Indian reservations. [2024 c 207 s 12.]

RCW 10.32.120 Tribal warrants—Other warrants. (Effective July 1, 2025.) A tribal arrest warrant under chapter 207, Laws of 2024 is not required to be given prioritization above other warrants. [2024 c 207 s 13.]

RCW 10.32.130 Tribal warrants—Criminally or civilly liable. (Effective July 1, 2025.) (1) A peace officer or a peace 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. [2024 c 207 s 14.]

RCW 10.32.900 Effective date—2024 c 207. This act takes effect July 1, 2025, except for section 17 of this act, which is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2024. [2024 c 207 s 18.]