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**SUBSTITUTE HOUSE BILL 2233**

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**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 a new section 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.

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

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

37 (6) The proclamation for retrocession does not become effective

1 until it is approved by a duly designated officer of the United States  
2 government and in accordance with the procedures established by the  
3 United States for the approval of a proposed state retrocession.

4 (7) Notwithstanding the state's retrocession of criminal and/or  
5 civil jurisdiction under this section, the state must retain the civil  
6 jurisdiction necessary for the civil commitment of sexually violent  
7 predators pursuant to chapter 71.09 RCW.

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

10 (a) "Civil retrocession" means the state's act of returning to the  
11 federal government the civil jurisdiction acquired over Indians and  
12 Indian country under federal Public Law 280, Act of August 15, 1953, 67  
13 Stat. 588 (codified as amended at 18 U.S.C. Sec. 1162, 25 U.S.C. Secs.  
14 1321-1326, and 28 U.S.C. Sec. 1360);

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

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

22 (d) "Indian country" means:

23 (i) All land within the limits of any Indian reservation under the  
24 jurisdiction of the United States government, notwithstanding the  
25 issuance of any patent, and including rights-of-way running through the  
26 reservation;

27 (ii) All dependent Indian communities with the borders of the  
28 United States whether in the original or subsequently acquired  
29 territory thereof, and whether within or without the limits of a state;  
30 and

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

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

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