

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2233**

Chapter 48, Laws of 2012

62nd Legislature  
2012 Regular Session

INDIAN TRIBES--CRIMINAL OR CIVIL JURISDICTION

EFFECTIVE DATE: 06/07/12

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

FRANK CHOPP

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**Speaker of the House of Representatives**

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

BRAD OWEN

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**President of the Senate**

Approved March 19, 2012, 1:32 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**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.

BARBARA BAKER

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**Chief Clerk**

FILED

March 19, 2012

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 2233**

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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, Jenkins, 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.

Passed by the House March 6, 2012.

Passed by the Senate March 5, 2012.

Approved by the Governor March 19, 2012.

Filed in Office of Secretary of State March 19, 2012.