SENATE BILL REPORT
SB 6258

As of February 5, 2020

Title: An act relating to addressing the suicide and addiction crisis among American Indians and Alaska Natives in this state.

Brief Description: Addressing the suicide and addiction crisis among American Indians and Alaska Natives.

Sponsors: Senators McCoy, Lovelett, Conway, Dhingra, Cleveland, Hasegawa, Kuderer, Randall, Stanford, Wilson, C., Carlyle, Das, Nguyen, Keiser, Van De Wege and Darneille.

Brief History:
Committee Activity: Behavioral Health Subcommittee to Health & Long Term Care: 1/31/20.

Brief Summary of Bill

- Declares the intent of the Legislature to address the ongoing suicide and addiction crisis among American Indians and Alaska Natives.
- Requires the Governor's Indian Health Advisory Council to draft legislation to address Indian health needs.
- Provides findings recognizing the impact of the behavioral health crisis among American Indians and Alaska Natives.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Staff: Kevin Black (786-7747)

Background: Washington is home to 29 federally-recognized Indian tribes, which exercise sovereignty over tribal lands. Health care on tribal lands is provided through an Indian Health Care Delivery system supported by the Indian Health Service and distinct from the state Medicaid program. In July 2017, tribes withdrew from the state managed care system, establishing a distinct funding system for American Indian and Alaska Native (AI/AN) clients.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Behavioral Health Crisis System. Washington uses a blend of Medicaid and non-Medicaid funding to support a crisis system for persons who are at risk of physical harm to themselves or others based on a behavioral health disorder. Designated crisis responders (DCRs) evaluate clients identified by crisis calls for potential commitment to inpatient facilities such as evaluation and treatment facilities (E&Ts) that specialize in treatment for mental health disorders and secure withdrawal management and stabilization facilities (SWMS) that specialize in treatment of substance use disorders (SUDs). Commitment decisions by DCRs are reviewed by courts which may approve or disapprove the commitment, or order a course of involuntary outpatient treatment provided by community behavioral health agencies.

Behavioral Health Services From Indian Providers. Behavioral health services including outpatient mental health, outpatient SUD, and inpatient SUD programs are provided by over 75 different Indian Health Care Providers (IHCPs) and Urban Indian Health Programs (UIHPs). IHCPs and UIHPs have provided integrated care for many years. There are currently no inpatient mental health services provided by IHCPs or UIHPs.

Tribes in Washington have been moving in the direction of developing capacity to provide inpatient mental health crisis services provided by IHCPs on tribal lands for some time. In 2013, following 18 months of work group meetings, a Tribal Centric Behavioral Health report was created calling for increased cultural competency training for state mental health providers interfacing with AI/AN populations, coordinated and central communications between the state mental health authority and tribal governments, and a feasibility study for structuring an IHCP residential mental health program. A Tribal E&T work group, supported by proviso funding, met between 2018-2019 and created a report on how to structure a tribal evaluation and treatment facility. A training for tribal designated crisis responders was held in August 2019.

Governor's Indian Health Advisory Council. In 2019, the Legislature enacted the Washington Indian Health Improvement Act which established the Governor's Indian Health Advisory Council to examine jurisdictional issues between tribes, UIHPs, and state agencies.

Federal Trust Responsibility. Since 1941, the United States Supreme Court has formally recognized a federal trust responsibility of the United States government to protect treaty rights, lands, assets, and resources of tribes. A 1977 report of the American Indian Policy Review Commission describes this responsibility as including an obligation to provide services including economic and social programs necessary to raise the standard of living and social well-being of the Indian people to a level comparable to non-Indian society. In furtherance of this trust, the federal government has created agencies such as the Indian Health Service to provide payments for federal health services on Indian lands. Health services supported by the Indian Health Service may be subject to higher reimbursement rates than the rates ordinarily paid by Medicaid in Washington. Medicaid services to AI/AN clients by tribal providers do not require state matching funds.

Summary of Bill: The Indian Health Advisory Council must draft recommended legislation to address Indian health improvement needs, including crisis coordination between Indian health care providers and the state's behavioral health system.

The Legislature intends to address the ongoing suicide and addiction crisis among American Indians and Alaska Natives by:

- allowing Indian health care providers to share in the Medicaid and non-Medicaid funds that support the statewide community behavioral health system and crisis system;
- strengthening behavioral health crisis system coordination with tribes and Indian health care providers by removing barriers to the federal trust responsibility to provide for American Indians and Alaska Natives; and
- recognizing the sovereign authority of tribal governments to act as public health authorities in providing for the health and safety of their community members.

A definition is provided in the Community Behavioral Health Services Act for "historical trauma," meaning situations where a community experienced traumatic events, the events generated high levels of collective distress, and the events were perpetuated by outsiders with a destructive or genocidal intent.

Legislative findings describe the impact of the behavioral health crisis on American Indian and Alaska Native populations in Washington State.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The state has made continual changes with respect to behavioral health services, but there is a continued lack of access for tribal members and lack of improvement in addiction and suicide rates, which are three times higher than average. There has been a lack of recognition for the contributions of Indian behavioral health providers. I have lost four nieces and nephews to drug overdose, all younger than 35 years old. Health care provided by tribes is the most effective way to ensure tribal self determination and ensure active participation by our people in our health care cycle. This bill supports tribal sovereignty, recognizes historical trauma and adverse childhood events, and the higher rates of disease burden, overdose, and suicide of tribal members. Lummi has crisis response workers who respond to overdoses and suicide attempts and collaborate with the crisis system. They administer Narcan. We need tribal DCRs to support our people, who are dying.

Persons Testifying: PRO: Marilyn Scott, Upper Skagit Tribe; Nickolaus Lewis, Lummi Nation.

Persons Signed In To Testify But Not Testifying: No one.