

SENATE BILL REPORT

SB 5694

As of January 17, 2022

Title: An act relating to recognizing Indian tribes as among the governmental entities with which the department of corrections may enter into agreements on matters to include the housing of inmates convicted in tribal court.

Brief Description: Recognizing Indian tribes as among the governmental entities with which the department of corrections may enter into agreements on matters to include the housing of inmates convicted in tribal court.

Sponsors: Senators Stanford, Robinson and Wilson, C..

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/18/22.

Brief Summary of Bill

- Allows the Department of Corrections to contract and enter into agreements with federally recognized Indian tribes for the care and commitment of inmates convicted in tribal court.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kelsey-anne Fung (786-7479)

Background: Federally Recognized Tribes. A federally recognized tribe is an American Indian or Alaska Native tribal entity recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation. Tribal sovereignty includes the right to establish their own form of government, determine membership requirements, enact legislation, and establish law enforcement and court systems. There are 574 federally recognized American Indian and Alaska Native tribes and villages, 29 of which are in Washington.

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

Tribal courts exert general jurisdiction over their tribal membership, as limited by the tribal code and constitution, and federal law. Few tribes have their own jails or juvenile detention facilities. Many tribes contract to use local county jail facilities, or they contract with other tribes that have jail facilities.

Government-to-Government Relationship. Washington State has agreements with federally recognized Indian tribes to facilitate government-to-government relations. Pursuant to the 1989 Centennial Accord executed between tribes and Washington State and 2012 legislation, state elected officials and agencies are required to, when establishing a government-to-government relationship with tribes:

- make reasonable efforts to collaborate with tribes in developing policies, agreements and programs affecting tribes;
- develop a consultation process for issues involving tribes;
- designate a tribal liaison who reports directly to the head of the agency;
- ensure that tribal liaisons and agency directors receive training through the Governor's Office of Indian Affairs or another provider that includes effective communication, collaboration, and cultural competency; and
- annually report to the Governor on activities involving tribes and implementation of these requirements.

Washington State Department of Corrections. The Washington State Department of Corrections (DOC) makes a reasonable effort to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affects tribes. Per the Centennial Accord of 1989, and the 2012 legislation, DOC annually reports to the Governor's Office of Indian Affairs on agency activities completed the prior year that strengthen relations with tribal governments and enhance tribal communities. As of June 2021, 5.7 percent of DOC's incarcerated population, or 785 individuals, identify as American Indian or Alaska Native.

DOC is currently authorized to contract with and receive persons from another state, state agency, county, or federal jurisdiction. The DOC secretary has broad powers to enter into agreements with any federal agency, any other state, or any state agency or local government providing for the operation of any correctional facility or program for persons convicted of felonies or misdemeanors or for juveniles. All persons sentenced to prison by the authority of the United States or of any state or territory of the United States may be received by DOC and imprisoned in accordance with the sentence of the court in which the person was tried. The DOC secretary has authority to contract with the proper officers or agencies of the United States and of other states and territories of the United States relative to the state's per diem rate for keeping the prisoner. The DOC secretary is prohibited from entering into any contract for the care or commitment of any prisoner of the federal government or any other state unless there is vacant space and unused facilities in state correctional facilities.

Summary of Bill: Federally recognized tribes are added among the governmental entities

DOC is allowed to contract with or enter into agreements with for the care or commitment of inmates from other jurisdictions. DOC may receive and imprison a person sentenced to prison by the authority of a federally recognized tribe. The DOC secretary may enter into contracts with the proper officers or agencies of federally recognized tribes relative to the state's per diem rate for keeping the prisoner. The DOC secretary is prohibited from entering into any contract for the care or commitment of any prisoner of any federally recognized tribe unless there is vacant space and unused facilities in state correctional facilities. The definition of inmate is altered to include persons received from a federally recognized tribe.

Appropriation: None.

Fiscal Note: Requested on January 6, 2022.

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

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