

SHB 1829 - H AMD 154

By Representative Goodman

ADOPTED 03/05/2025

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 10.32.070 and 2024 c 207 s 8 are each amended to
4 read as follows:

5 (1) Subject to the provisions of RCW 10.32.050, a place of
6 detention shall deliver or make available a person in custody to the
7 noncertified tribe without a judicial order of surrender provided
8 that:

9 ~~((1))~~ (a) Such person is alleged to have broken the terms of
10 his or her probation, parole, bail, or any other release of the
11 noncertified tribe; and

12 ~~((2))~~ (b) The place of detention has received from the
13 noncertified tribe an authenticated copy of a prior waiver of
14 extradition signed by such person as a term of his or her probation,
15 parole, bail, or any other release of the noncertified tribe and
16 photographs or fingerprints or other evidence properly identifying
17 the person as the person who signed the waiver.

18 (2) As used in this section, "authenticated copy" means a copy of
19 a prior waiver of extradition signed by an authorized representative
20 of the tribal court attesting the document is a true record of the
21 tribal court waiver of extradition.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.32
23 RCW to read as follows:

24 The certified or noncertified tribe demanding the extradition of
25 a tribal fugitive pursuant to this chapter shall have standing in any
26 hearing in state court testing the legality of the extradition.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.32
28 RCW to read as follows:

1 (1) Upon issuing a tribal warrant, the court of a tribe may file
2 such warrant with the superior court of the county in which the tribe
3 is physically located along with:

4 (a) A certified copy of the charging document;

5 (b) The tribal code provision, constitutional provision, or
6 federal statute authorizing the certified tribe to exercise criminal
7 jurisdiction over the tribal fugitive for whom the tribal warrant has
8 been issued; and

9 (c) Identifying information for the tribal fugitive.

10 (2) A warrant so filed shall be timely reviewed by a superior
11 court. If the court makes a finding of probable cause that a tribal
12 fugitive subject to a filed tribal warrant has been charged with a
13 crime by the filing tribe, the court must order the issuance of a
14 state warrant of arrest for such tribal fugitive from justice under
15 section 4 of this act, which shall expire six months after issuance,
16 unless withdrawn earlier under subsection (4) of this section.

17 (3) Any judicial proceedings involving a tribal fugitive subject
18 to a warrant filed under this section must occur in the county where
19 the tribal fugitive is first detained.

20 (4) A warrant filed under this section must be withdrawn once the
21 person who is the subject of the tribal warrant has submitted to the
22 tribe's tribal court jurisdiction or been arrested.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.32
24 RCW to read as follows:

25 Whenever any person within this state shall be charged on the
26 oath of any credible person before any judge or magistrate of this
27 state with the commission of any crime by any federally recognized
28 tribe with territory located within the borders of the state of
29 Washington and with having fled from justice, or with having been
30 convicted of a crime by any federally recognized tribe with territory
31 located in the state of Washington and having escaped from
32 confinement, or having broken the terms of such person's bail,
33 probation, or parole, or whenever complaint shall have been made
34 before any judge or magistrate in this state setting forth on the
35 affidavit of any credible person of a federally recognized tribe with
36 territory within this state that a crime has been committed for which
37 the tribe has criminal jurisdiction and that the accused has been
38 charged by such tribe with the commission of the crime, and has fled
39 from justice, or with having been convicted of a crime in that

1 tribe's courts and having escaped from confinement, or having broken
2 the terms of such person's bail, probation, or parole and is believed
3 to be in this state, the judge or magistrate shall issue a warrant
4 directed to any peace officer commanding such officer to apprehend
5 the person named therein, wherever such person may be found in this
6 state, and to bring such person before the same or any other judge,
7 magistrate, or court who or which may be available in or convenient
8 of access to the place where the arrest may be made, to answer the
9 charge or complaint and affidavit, and a certified copy of the sworn
10 charge or complaint and affidavit upon which the warrant is issued
11 shall be attached to the warrant.

12 **Sec. 5.** RCW 9A.72.010 and 2019 c 232 s 10 are each amended to
13 read as follows:

14 The following definitions are applicable in this chapter unless
15 the context otherwise requires:

16 (1) "Materially false statement" means any false statement oral
17 or written, regardless of its admissibility under the rules of
18 evidence, which could have affected the course or outcome of the
19 proceeding;

20 (2) "Oath" includes an affirmation and every other mode
21 authorized by law of attesting to the truth of that which is stated;
22 in this chapter, written statements shall be treated as if made under
23 oath if:

24 (a) The statement was made on or pursuant to instructions on an
25 official form bearing notice, authorized by law, to the effect that
26 false statements made therein are punishable;

27 (b) The statement recites that it was made under oath, the
28 declarant was aware of such recitation at the time he or she made the
29 statement, intended that the statement should be represented as a
30 sworn statement, and the statement was in fact so represented by its
31 delivery or utterance with the signed jurat of an officer authorized
32 to administer oaths appended thereto; or

33 (c) It is a statement, declaration, verification, or certificate,
34 made within or outside the state of Washington, which is declared to
35 be true under penalty of perjury as provided in chapter 5.50 RCW or
36 under the code of any federally recognized tribe.

37 (3) An oath is "required or authorized by law" when the use of
38 the oath is specifically provided for by statute or regulatory
39 provision or when the oath is administered by a person authorized by

1 state, a federally recognized tribe, or federal law to administer
2 oaths;

3 (4) "Official proceeding" means a proceeding heard before any
4 state, federally recognized tribal, or federal legislative, judicial,
5 administrative, or other government agency or official authorized to
6 hear evidence under oath, including any tribal court, referee,
7 hearing examiner, commissioner, notary, or other person taking
8 testimony or depositions;

9 (5) "Juror" means any person who is a member of any jury,
10 including a grand jury, impaneled by any court of this state, or
11 tribal court, or by any public servant authorized by law to impanel a
12 jury; the term juror also includes any person who has been drawn or
13 summoned to attend as a prospective juror;

14 (6) "Testimony" includes oral or written statements, documents,
15 or any other material that may be offered by a witness in an official
16 proceeding;

17 (7) "Tribal" means a federally recognized Indian tribe as defined
18 by 25 U.S.C. Sec. 1301;

19 (8) "Tribal court" means an Indian court as defined by 25 U.S.C.
20 Sec. 1301;

21 (9) "Tribal law" means the Constitution, codes, ordinance,
22 regulations, case law, and customary law of a federally recognized
23 tribe.

24 **Sec. 6.** RCW 10.32.010 and 2024 c 207 s 2 are each amended to
25 read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Noncertified tribe" means a federally recognized tribe
29 located within the borders of the state of Washington that is
30 requesting that a tribal fugitive be surrendered to the duly
31 authorized agent of the tribe, but has not received approval to
32 exercise jurisdiction under the tribal law and order act of 2010,
33 section 234, codified at 25 U.S.C. Sec. 1302, and which has agreed by
34 treaty or practice not to shelter or conceal offenders against the
35 laws of the state of Washington but to deliver them up to state
36 authorities for prosecution.

37 (2) "Certified tribe" means a federally recognized tribe located
38 within the borders of the state of Washington that (a) may impose a
39 term of imprisonment of greater than one year, or a fine greater than

1 \$5,000, or both, pursuant to the tribal law and order act of 2010,
2 section 234, codified at 25 U.S.C. Sec. 1302; and (b) has agreed not
3 to shelter or conceal offenders against the laws of the state of
4 Washington but to deliver them up to state authorities for
5 prosecution.

6 (3) "Peace officer" has the same meaning as in RCW 10.93.020(4).

7 (4) "Place of detention" means a jail as defined in RCW
8 70.48.020, a correctional facility as defined in RCW 72.09.015, and
9 any similar adult facility contracted by a city or county.

10 (5) "Tribal court judge" includes every judicial officer
11 authorized alone or with others, to hold or preside over the criminal
12 court of a certified tribe or noncertified tribe.

13 (6) "Tribal fugitive" or "fugitive" means any person who is
14 subject to tribal court criminal jurisdiction, committed an alleged
15 crime under the tribal code, and thereafter fled tribal jurisdiction,
16 including by escaping or evading confinement, breaking the terms of
17 their probation, bail, or parole, or absenting themselves from the
18 jurisdiction of the tribal court.

19 (7) "Tribal police officer" has the same meaning as in RCW
20 10.92.010.

21 **Sec. 7.** RCW 10.32.130 and 2024 c 207 s 14 are each amended to
22 read as follows:

23 (1) A peace officer (~~or a peace~~) as defined in RCW 43.101.010,
24 limited authority Washington peace officer as defined in RCW
25 10.93.020, specially commissioned Washington peace officer as defined
26 in RCW 10.93.020, local or state corrections officer as defined in
27 RCW 43.101.010, jail as defined in RCW 70.48.020, or such officer's
28 or jail facility's legal advisor may not be held criminally or
29 civilly liable for making an arrest or not making an arrest under
30 chapter 207, Laws of 2024 if the peace officer or the peace officer's
31 legal advisor acted in good faith and without malice.

32 (2) Chapter 207, Laws of 2024 is not intended to limit, abrogate,
33 or modify existing immunities for prosecuting attorneys for good
34 faith conduct consistent with statutory duties.

35 **Sec. 8.** RCW 10.32.090 and 2024 c 207 s 10 are each amended to
36 read as follows:

37 (1) A peace officer may arrest a person subject to a tribal
38 arrest warrant from a noncertified tribe when the warrant is

1 presented by a tribal court representative or tribal law enforcement
2 officer to the peace officer or a general authority Washington law
3 enforcement agency as defined in RCW 10.93.020 or entered in the
4 national crime information center (~~(interstate identification index)~~)
5 or Washington information center. The arrested person must be brought
6 to an appropriate place of detention and then to the nearest
7 available superior court judge (~~(without unnecessary delay)~~) the next
8 judicial day. The superior court judge shall issue an order
9 continuing custody upon presentation of the tribal arrest warrant.

10 (2) The judge shall inform the person appearing under subsection
11 (1) of this section of the name of the noncertified tribe that has
12 subjected the person to an arrest warrant, the basis of the arrest
13 warrant, the right to assistance of counsel, and the right to require
14 a judicial hearing before transfer of custody to the applicable
15 noncertified tribe.

16 (3) After being informed by the judge of the effect of a waiver,
17 the arrested person may waive the right to require a judicial hearing
18 and consent to return to the applicable noncertified tribe by
19 executing a written waiver. If the waiver is executed, the judge
20 shall issue an order to transfer custody under subsection (5) of this
21 section or, with consent of the applicable noncertified tribe,
22 authorize the voluntary return of the person to that tribe.

23 (4) If a hearing is not waived under subsection (3) of this
24 section, the court shall hold a hearing within (~~(three days)~~) 72
25 hours, excluding weekends and holidays, after the initial appearance.
26 The arrested person and the prosecuting attorney's office shall be
27 informed of the time and place of the hearing. The court shall
28 release the person upon conditions that will reasonably assure
29 availability of the person for the hearing or direct a peace officer
30 to maintain custody of the person until the time of the hearing.
31 Following the hearing, the judge shall issue an order to transfer
32 custody under subsection (5) of this section unless the arrested
33 person established by clear and convincing evidence that the arrested
34 person is not the person identified in the warrant. If the court does
35 not order transfer of custody, the judge shall order the arrested
36 person to be released.

37 (5) A judicial order to transfer custody issued under subsection
38 (4) of this section shall be directed to a peace officer to take or
39 retain custody of the person until a representative of the applicable
40 noncertified tribe is available to take custody. If the noncertified

1 tribe has not taken custody (~~(with—[within])~~) within three days,
2 excluding weekends and holidays, the court may order the release of
3 the person upon conditions that will assure the person's availability
4 on a specified date (~~(with—[within])~~) within seven days. If the
5 noncertified tribe has not taken custody within the time specified in
6 the order, the person shall be released. Thereafter, an order to
7 transfer custody may be entered only if a new arrest warrant is
8 issued. The court may authorize the voluntary return of the person
9 with the consent of the applicable noncertified tribe.

10 **Sec. 9.** RCW 10.32.100 and 2024 c 207 s 11 are each amended to
11 read as follows:

12 (1) Any arrest warrant issued by the court of a certified tribe
13 shall be accorded full faith and credit by the courts of the state of
14 Washington and enforced by the court and peace officers of the state
15 as if it were the arrest warrant of the state. A Washington state
16 peace officer who arrests a person pursuant to the arrest warrant of
17 a certified tribe, if no other grounds for detention exist under
18 state law, shall, as soon as practical after detaining the person,
19 and in accordance with standard practices, contact the tribal law
20 enforcement agency that issued the warrant to establish the warrant's
21 validity.

22 (2) A place of detention shall allow a certified tribe to place a
23 detainer on an inmate based on a tribal warrant. For the purposes of
24 this section, detainer means a request by a certified tribe's tribal
25 court, tribal police department, or tribal prosecutor's office, filed
26 with the place of detention in which a person is incarcerated, to
27 hold the person for the certified tribe and to notify the tribe when
28 release of the person is imminent so that the person can be
29 transferred to tribal custody within 72 hours of their release from
30 all other holds.

31 (3) The privilege of the writ of habeas corpus shall be available
32 to any person detained under this provision. The issues in the habeas
33 corpus proceeding shall be limited to those identified in RCW
34 10.32.060 (4) and (5)."

EFFECT: • Provides that a tribe, instead of a certified tribe,
may file a tribal warrant with the superior court of the county in
which the tribe is physically located, along with specified documents
and information, which must be timely reviewed by the court.

- Removes the requirement that a tribe filing a tribal warrant with a superior court must provide a photograph and fingerprints of a tribal fugitive subject to a filed warrant.

- Removes a provision stating that any tribal warrant filed with a superior court must be enforced by the court and peace officers of this state as if it were an arrest warrant of the state if accompanied by specified required documents and information.

- Removes the requirement that a person arrested by a Washington state peace officer pursuant to the arrest warrant of a certified tribe must be brought to an appropriate place of detention, and then to the nearest available superior court judge the next judicial day, including removing the requirement to hold a hearing within 72 hours after the arrested person's initial appearance unless waived.

- Reinstates the ability for a certified tribe to place a detainer on an inmate based on its tribal warrant, and the transfer of such person to tribal custody within 72 hours of their release from all other holds.

- Limits the issues that may be raised in a habeas corpus proceeding when someone is subject to a detainer based on a certified tribe's warrant.

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