

# HOUSE BILL REPORT

## HB 1829

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**As Reported by House Committee On:**  
Community Safety

**Title:** An act relating to tribal warrants.

**Brief Description:** Concerning tribal warrants.

**Sponsors:** Representatives Lekanoff, Goodman and Pollet.

**Brief History:**

**Committee Activity:**

Community Safety: 2/11/25, 2/20/25 [DPS].

**Brief Summary of Substitute Bill**

- Makes multiple modifications to procedures for certified and noncertified tribes under the Tribal Warrants Act.

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### HOUSE COMMITTEE ON COMMUNITY SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Goodman, Chair; Graham, Ranking Minority Member; Burnett, Davis, Farivar, Fosse and Obras.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Simmons, Vice Chair; Griffey, Assistant Ranking Minority Member.

**Staff:** Michelle Rusk (786-7153).

**Background:**

The Tribal Warrants Act.

In 2024 the Tribal Warrants Act (TWA) was enacted, which creates uniform processes by

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which the State of Washington may facilitate the return of an individual to a tribe where the individual violated tribal law and sought to avoid tribal jurisdiction by leaving it. Based on the foregoing definitions, specified procedures are established for certified tribes and noncertified tribes. Under the TWA:

- A "tribal fugitive" is any person subject to tribal court criminal jurisdiction who committed an alleged crime under tribal code and thereafter fled tribal jurisdiction.
- "Noncertified tribes" are federally recognized tribes located within the borders of Washington that request a tribal fugitive be surrendered to the duly authorized agent of the tribe, but do not meet TWA certification requirements.
- "Certified tribes" are federally recognized tribes located within the borders of the State of Washington that meet the requirements of the federal Tribal Law and Order Act and have agreed not to shelter or conceal offenders against the laws of the State of Washington but deliver them to state authorities for prosecution.
- A "place of detention" is a jail, correctional facility, and any similar facility contracted by a city or county.

*Procedures for Tribal Warrants of Noncertified Tribes—Places of Detention.*

When a place of detention becomes aware it has detained a tribal fugitive for whom a noncertified tribe has issued an arrest warrant, the place of detention must provide notice as soon as practical to the noncertified tribe's law enforcement. The noncertified tribe who issued the arrest warrant may demand extradition of the tribal fugitive. A written demand will be recognized if it: (1) alleges the demanded person is a tribal fugitive; (2) alleges the tribal court has jurisdiction; and (3) is accompanied by required documentation.

The Attorney General or county prosecuting attorney must submit the demand and accompanying documents to the applicable superior court with a motion for an order of surrender. The motion must be served on the person whose extradition is demanded, and the person must be taken before a superior court judge the next judicial day. The demanded person may either: (1) consent to returning to the noncertified tribe; or (2) demand a hearing to test the legality of the motion. Any hearing must take place within three judicial days of the demand and is limited to determining whether the person:

- has been charged with or convicted of a crime by the tribe;
- is the person named in the request; and
- is a fugitive.

If the superior court determines the foregoing requirements have been met, the judge must issue an order for surrender to the noncertified tribe. If the tribe does not take timely custody, the person may be released with bail conditioned on the person's appearance before the court at a later time for the person's surrender to the noncertified tribe. A tribal court representative who is certified as a general authority Washington peace officer, or cross-deputized, may transport a tribal fugitive within the state under an order of surrender.

A place of detention must deliver or make available a tribal fugitive without an order of surrender only if:

- the person is alleged to have broken the terms of the person's probation, parole, bail, or any other release of tribe; and
- the place of detention has received from the tribe an authenticated copy of a prior waiver of extradition signed by the person as a term of their probation, parole, bail, or any other release of the tribe.

*Procedures for Tribal Warrants of Noncertified Tribes—Arrest.*

A procedure was also created for the arrest of individuals subject to a noncertified tribe's arrest warrant. Peace officers may arrest someone subject to a tribal arrest warrant from a noncertified tribe when the warrant is presented to the peace officer by a tribal court representative or tribal law enforcement officer, or when the warrant is entered into the National Crime Information Center Interstate Identification Index. The TWA articulates further judicial procedures for handling extradition requests in these circumstances.

*Procedure for Tribal Warrants of Certified Tribes.*

Any arrest warrant issued by certified tribes must be accorded full faith and credit by state courts and enforced by the courts and state peace officers as if it were the arrest warrant of the state. When a state law enforcement officer arrests someone under a certified tribe's arrest warrant, and no other grounds for detention exist under state law, the officer must contact the tribal law enforcement agency that issued the warrant to establish its validity.

In response to a request from a certified tribe, places of detention must allow certified tribes to place a hold on an inmate based on a tribal warrant and notify the tribe when release of the person is imminent so that the person may be transferred to tribal custody. The privilege of the writ of habeas corpus is available to any person detained in the foregoing circumstances.

*Immunity.*

A peace officer or a peace officer's legal advisor may not be held criminally or civilly liable for making an arrest under the TWA if the peace officer or the peace officer's legal advisor acted in good faith and without malice. Moreover, this act was not intended to limit, abrogate, or modify existing immunities for prosecuting attorneys for good faith conduct consistent with statutory duties.

Uniform Criminal Extradition Act.

Washington law establishes procedures for the extradition of individuals from this state who are charged with a crime in another state, and the return of individuals charged with a crime to this state from another state. Specifically, Washington law provides that, if any person in this state is credibly charged with the commission of a crime in another state and the person has fled from justice, or been convicted of a crime in another state and escaped from confinement or broken the terms of their probation or parole, a Washington judge must issue a warrant directed to any peace officer to apprehend the individual wherever they may be found in this state and bring them before a judge to answer for the charge.

### Perjury and Interference with Official Proceedings.

Several felony and misdemeanor offenses address perjury and interference with official proceedings. For example, felony Perjury occurs when an individual in any official proceeding makes a materially false statement which the individual knows to be false under an oath required or authorized by law. The gross misdemeanor of False Swearing occurs if a person makes a false statement, which the person knows to be false, under an oath required or authorized by law. There are also penalties for the offenses of Intimidating or Tampering with a Witness or Juror, and Tampering with Physical Evidence.

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### **Summary of Substitute Bill:**

#### The Tribal Warrants Act.

The TWA's definition of "place of detention" is modified to include only adult facilities contracted by a city or county.

Both a certified tribe and noncertified tribe demanding extradition of a tribal fugitive under the TWA shall have standing in any state court hearing testing the legality of an extradition.

#### *Noncertified Tribes.*

Peace officers may arrest someone subject to a noncertified tribe's arrest warrant when it is entered in the Washington Information Center, in addition to a warrant that has been entered in the National Crime Information Center. The arrested person must be brought to the nearest available superior court judge the next judicial day, instead of without unnecessary delay.

A definition of "authenticated copy" is established for purposes of when a place of detention must deliver or make available a tribal fugitive to a demanding noncertified tribe without an order of surrender upon receipt of an authenticated copy of a person's prior waiver of extradition. "Authenticated copy" means a copy of a prior waiver of extradition signed by an authorized representative of a tribal court attesting the document is a true record of the tribal court waiver of extradition.

#### *Certified Tribes.*

Certified tribe procedures are also modified. Procedures for a certified tribe to place a detainer on an inmate at a place of detention based on a tribal warrant are removed. Instead, a person arrested by a state peace officer under a certified tribe's arrest warrant must be brought to a place of detention and then the nearest available superior court judge the next judicial day. The judge must inform the detained person of: (1) the certified tribe who issued the arrest warrant; (2) the basis of the arrest warrant; (3) the right to assistance of counsel; and (4) the right to a judicial hearing before transfer of custody to the certified tribe.

If a person waives the right to a judicial hearing and consents to being returned to the certified tribe, the judge must issue an order transferring custody. If a hearing is not waived, the court must hold it within 72 hours. Until the hearing, a detained person must either be released upon conditions that will reasonably assure the person's availability for the subsequent hearing or may continue to be held in custody. A judge must issue an order to transfer custody unless the arrested person establishes by clear and convincing evidence they are not the person in the arrest warrant.

After issuance of an order to transfer custody, if a certified tribe does not take custody of the person within three days, the court may order the person's release upon conditions that will assure the person's availability on a specified date within one week. The person must be released after that time if the certified tribe has not taken custody.

A certified tribe may also file a tribal warrant with a state superior court of the county where the tribe is physically located, which must be enforced by state courts and peace officers as if it were a state arrest warrant if it is accompanied by: (1) a certified copy of the charging document; (2) the tribal code provision, or constitutional provision, or federal statute authorizing the exercise of criminal jurisdiction over the tribal fugitive; and (3) a photograph, fingerprints, and other identifying information about the tribal fugitive. If a superior court makes a finding of probable cause that the tribal fugitive subject to the filed warrant has been charged by the certified tribe with a crime, the court must order issuance of a state arrest warrant, which expires six months after issuance unless earlier withdrawn. A tribal warrant filed according to the foregoing procedures must be withdrawn once the subject of the warrant submits to the certified tribe's court jurisdiction or has been arrested.

#### *Immunity.*

In addition to peace officers and peace officer legal supervisors, the following and their legal advisors may also not be held criminally or legally liable for making an arrest or not making an arrest under the TWA if the officer or legal advisor acted in good faith and without malice: (1) limited authority Washington peace officers; (2) specially commissioned Washington peace officers; (3) local or state corrections officers; (4) jails; and (5) legal advisors for the foregoing.

#### Fugitives and Tribal Warrants.

If any person in this state is credibly charged with the commission of a crime by a federally recognized tribe with territory located in this state, and the person has fled from justice, or been convicted of a crime by any such federally recognized tribe and escaped from confinement or broken the terms of their probation or parole, a Washington judge must issue a warrant directed to any peace officer to apprehend the individual wherever they may be found in this state and bring them before a judge to answer for the charge.

#### Perjury and Interference with Official Proceedings.

The definitions used for felony and misdemeanor offenses concerning, for example, Perjury, False Swearing, and Intimidating or Tampering with a Witness or Juror are modified to

include:

- official proceedings heard before any state, federally recognized tribal, or federal legislative, judicial, administrative, or other government agency, including proceedings where tribal courts take testimony or depositions;
- oaths declared to be true under penalty of perjury as provided under the code of any federally recognized tribe, and as required or authorized by a federally recognized tribe; and
- jurors impaneled by a tribal court.

Definitions are also added for "tribal," "tribal court," and "tribal law."

### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- gives certified tribes, in addition to noncertified tribes, standing in any hearing in state court testing the legality of an extradition;
- removes the provision establishing a scope of authority in the TWA similar to Washington's "Fugitives of this State" law and instead authorizes state judges to issue warrants directed to state peace officers for tribal fugitives who have been charged with the commission of any crime by any federally recognized tribe located in the state and who have fled from justice;
- expands immunity under the TWA to include jails and jail facilities' legal advisors, and establishes that immunity under the TWA extends to both making an arrest or not making an arrest;
- modifies the requirements certified tribes must meet when filing tribal warrants with state superior courts including requiring a photograph, fingerprints, or other identifying information for a tribal fugitive;
- directs superior courts to issue a state arrest warrant for a tribal fugitive upon a finding of probable cause that the fugitive subject to a certified tribe's tribal warrant filed with the superior court has been charged with a crime by the certified tribe;
- establishes and requires a state court judicial hearing process for tribal fugitives subject to a certified tribe's warrant who have been arrested by a state peace officer, including requiring the person to be brought before a superior court the next judicial day and allowing the person to contest their transfer to the custody of the certified tribe; and
- removes the authorization for certified tribes to place detainers on tribal fugitives at places of detention subject to a tribal warrant of the certified tribe.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on February 21, 2025.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill is providing a few technical changes but also some substantive ones to a policy enacted last year. For three years, several groups have been working on this policy including tribal representatives, law enforcement, state and tribal prosecutors, state and tribal judges, police chiefs, sheriffs, and more. They all agree this bill is important to Washington State but also provides justice for survivors who are suffering on reservations when a crime has been committed but the perpetrator has fled. Many tribes come to mind when I think about situations when crime has occurred on a reservation and even though a tribal police chief has issued an arrest warrant, the person has fled and the warrant is just left standing. It has taken many years to address this justice gap. These technical changes come as a result of a roundtable of all the previously mentioned parties, who are looking to find better ways to implement this law. Whether you live on or off a reservation, you are still a Washingtonian and this committee recognizes that justice can be found in this state, on and off the reservation.

(Opposed) None.

(Other) The Washington Association of Sheriffs and Police Chiefs has been working on this policy for about 10 years. This bill addresses items that we need to fix, but we need to do it right. Last session there were asks for fixes to the policy. In particular, there has been unanimous agreement that there should be a crime of Tribal Fugitive, and the current bill does not effectuate that. The appropriate analogue is in chapter 10.88 RCW. We also think liability protections need to be included here, and specifically protections from de-certification allegations. There should also be dedicated funding for training.

The Washington Association of Prosecuting Attorneys is "other" on this policy because of a few things that need to be added. Specifically, the Tribal Fugitive from Justice offense needs to be added correctly. We also will continue to ask for the inclusion of a provision relating to costs. Under an extradition order now, the person seeking extradition pays for the costs. In this dynamic, under the TWA we are asking that there's an agreement up front about who will cover the costs. There is also a provision allowing a certified tribe to file a tribal warrant in state court, and we need additional mechanisms around the filing of these warrants. Particularly because we don't want state actors acting on a warrant that appears valid, but is no longer valid. Section 8 of the bill also has language about bringing individuals before a court within one business day of the individual being brought into custody, and this should be added to section 9.

**Persons Testifying:** (In support) Representative Debra Lekanoff, prime sponsor.

(Other) James McMahan, WA Assoc Sheriffs and Police Chiefs; and Russell Brown, WA

Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** None.