

# SENATE BILL REPORT

## ESHB 1829

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As of March 21, 2025

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

**Brief Description:** Concerning tribal warrants.

**Sponsors:** House Committee on Community Safety (originally sponsored by Representatives Lekanoff, Goodman and Pollet).

**Brief History:** Passed House: 3/5/25, 61-36.

**Committee Activity:** Law & Justice: 3/24/25.

### Brief Summary of Bill

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

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Joe McKittrick (786-7287)

**Background:** In 2024, Washington enacted the Tribal Warrants Act (TWA) which created a uniform process for the state to facilitate the return of individuals to tribal jurisdiction when the individual violated tribal law and then left the territory of that tribe.

Under the TWA, a "certified tribe" means any federally recognized tribe located within the borders of the state of Washington that meets the requirements of the federal Tribal Law and Order Act and that has agreed not to shelter or conceal offenders against the laws of the state of Washington. A "non-certified tribe" means any federally recognized tribe within the borders of the state that does not meet TWA certification requirements and that requests a tribal fugitive be surrendered to the tribe.

Certified Tribes. Any arrest warrant issued by a certified tribe must be accorded full faith

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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 can be transferred to tribal custody. The privilege of the writ of habeas corpus is available to any person detained in the foregoing circumstances.

Noncertified Tribes. 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 warrant may then demand extradition of that 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 consent to returning to the jurisdiction of the noncertified tribe or 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 the 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.

The TWA also created a procedure 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.

Immunity. A peace officer or 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 was acting in good faith and without malice. The TWA is 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 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.

**Summary of Bill:** 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 have standing in any state court hearing testing the legality of an extradition. The court of a tribe may file a tribal warrant with a superior court of the county where the tribe is physically located along with:

- a certified copy of the charging document;
- the tribal code provision, or constitutional provision, or federal statute authorizing exercise of criminal jurisdiction over the tribal fugitive; and
- identifying information about the tribal fugitive.

A warrant so filed must be timely reviewed by a superior court. If the court makes a finding of probable cause that the tribal fugitive subject to the filed warrant has been charged by the tribe with a crime, the court must issue a state arrest warrant, which expires within six months unless withdrawn earlier. A warrant so filed must be withdrawn once the subject of the warrant submits to the filing tribal court's jurisdiction or has been arrested.

Noncertified Tribes. Peace officers may arrest a person 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.

A definition of "authenticated copy" is added related to when a place of detention must deliver or make available a tribal fugitive to a demanding noncertified tribe without an order of surrender and upon receipt of an authenticated copy of a person's prior waiver of extradition. "Authenticated copy" is defined to mean 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 modified. When a certified tribe has placed a detainer on someone at a place of detention based on a tribal warrant, the place of detention must notify the tribe when release is imminent so the person can be transferred to tribal custody within 72 hours of their release from all other holds. The writ of habeas corpus available to anyone detained in these circumstances is limited to determining whether the person has been charged by a tribe, is the person named in the certified tribe's demand, and is a fugitive. No inquiry into the guilt or innocence of the person may be made.

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 Washington, 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."

**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.