

SB297A STAFF MEASURE SUMMARY

Carrier: Sen. Hansell

Senate Committee On Judiciary

Action Date: 02/21/19
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 7-0-0-0
Yeas: 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Addie Smith, Counsel
Meeting Dates: 2/21

WHAT THE MEASURE DOES:

Permits judges of federally recognized Indian tribes in Oregon to initiate commitment procedures under ORS 426.070. Expands the application of statute permitting emergency commitment of individuals in Indian country to all federally recognized Indian tribes in Oregon.

ISSUES DISCUSSED:

- Government-to-government process
- Commitment process under current statutes
- Provisions of measure

EFFECT OF AMENDMENT:

Removes provision allowing tribal court judges to directly commit individuals to the Oregon Health Authority.

BACKGROUND:

Oregon has nine federally recognized Indian Tribes. These tribes are independent sovereign governments which, like other governments, have inherent authority to govern their citizens and see to their health, safety and welfare through governmental means. This authority includes judicial decision-making. Indian country is defined by federal law as "a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." See 18 U.S.C. § 1151.

Under current Oregon law, tribes cannot directly commit individuals in Indian country to the Oregon Health Authority. Local health officers, magistrates and two concerned citizens can initiate the civil commitment processes, but tribal judges are not authorized to initiate a civil commitment. Further, the statute that provides a process for tribal judges to make emergency civil commitments for individuals in Indian country, triggering the commitment process in circuit court, is limited in scope to those tribes that, have exclusive civil jurisdiction. In Oregon, those are the Confederated Tribes of Warm Springs and the Burns Paiute Tribe. See Public Law 83-280.

Through the government-to-government process, the Confederate Tribes of the Umatilla Indian Reservation collaborated with the Governor's Office, the Department of Justice, and the Oregon Health Authority to create a process for all federally recognized tribal courts to facilitate civil commitments.

Senate Bill 297-A is the result of that government-to-government effort. It includes all of Oregon's federally recognized tribes in the statute providing authority to initiate commitment proceedings, ORS 426.070, and in the statute providing for emergency commitment in Indian country, ORS 426.180.