

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB25-009 be amended as follows:

1 Amend printed bill, page 3, line 9, after "**process.**" insert "(1)".

2 Page 3, strike lines 11 through 19 and substitute "THE TRIBAL WARRANT
3 IF THE PEACE OFFICER VERIFIES THE VALIDITY OF THE WARRANT AND
4 CONFIRMS THAT THE WARRANT PERMITS EXTRADITION. THE LAW
5 ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION MAY SURRENDER
6 A PERSON ARRESTED PURSUANT TO A TRIBAL ARREST WARRANT TO THE
7 LAW ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION IF THE LAW
8 ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION IS AVAILABLE TO
9 TAKE CUSTODY OF THE PERSON. IF THE LAW ENFORCEMENT AGENCY OF
10 THE TRIBAL JURISDICTION IS NOT AVAILABLE TO TAKE CUSTODY OF THE
11 PERSON, THE LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION
12 SHALL HOLD THE PERSON IN THE COUNTY DETENTION FACILITY OF THE
13 LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION. IF THE
14 ARREST WARRANT IS NON-EXTRADITABLE OR IF THE BOND ON THE ARREST
15 WARRANT IS A PERSONAL RECOGNIZANCE BOND, THE LAW ENFORCEMENT
16 AGENCY IN THE ARRESTING JURISDICTION MUST IMMEDIATELY RELEASE
17 THE PERSON FROM STATE CUSTODY.

18 (2) **Court Process.** (a) DISTRICT COURTS SHALL FOLLOW THE
19 PROCESS OUTLINED IN THIS SUBSECTION (2) FOR EXTRADITION CASES
20 ARISING FROM A TRIBAL COURT ORDER.

21 (b) IF A PERSON IS ARRESTED ON A TRIBAL COURT ARREST
22 WARRANT AND THE LAW ENFORCEMENT AGENCY IN THE ARRESTING
23 JURISDICTION DOES NOT SURRENDER THE PERSON IMMEDIATELY TO THE
24 LAW ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION AS DESCRIBED
25 IN SUBSECTION (1) OF THIS SECTION, A PEACE OFFICER OF THE LAW
26 ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON SHALL BRING THE
27 PERSON BEFORE A JUDGE IN THE NEAREST DISTRICT COURT THE NEXT DAY
28 THE COURT IS IN SESSION. THE DISTRICT COURT SHALL APPOINT THE
29 PERSON COURT-APPOINTED COUNSEL IF THE PERSON IS ELIGIBLE AND
30 INFORM THE PERSON OF THE EXISTENCE OF THE ARREST WARRANT, THE
31 NATURE OF THE ARREST WARRANT, AND THE PERSON'S RIGHTS, INCLUDING
32 THE RIGHT TO COUNSEL, THE RIGHT TO REMAIN SILENT, THE RIGHT TO
33 CONTEST THE LEGALITY OF THE EXTRADITION REQUEST, AND THE RIGHT TO
34 WAIVE EXTRADITION AND KNOWINGLY, INTELLIGENTLY, AND
35 VOLUNTARILY AGREE TO RETURN TO THE TRIBAL JURISDICTION.

36 (c) (I) THE ARRESTED PERSON IDENTIFIED IN SUBSECTION (2)(b) OF
37 THIS SECTION MAY, IN THE PRESENCE OF A DISTRICT COURT JUDGE, SIGN A
38 WAIVER OF EXTRADITION VERIFYING THAT THE PERSON CONSENTS TO THE
39 RETURN TO THE TRIBAL JURISDICTION. BEFORE THE PERSON SIGNS THE
40 WAIVER OF EXTRADITION, THE DISTRICT COURT JUDGE SHALL INFORM THE

1 PERSON OF THE PERSON'S RIGHT TO TEST THE LEGALITY OF THE
2 EXTRADITION REQUEST.

3 (II) IF A PERSON REQUESTS A HEARING TO TEST THE LEGALITY OF
4 THE EXTRADITION REQUEST, THE DISTRICT COURT SHALL HOLD THE
5 HEARING WITHIN SEVEN DAYS AFTER THE PERSON FACING EXTRADITION
6 REQUESTS THE HEARING UNLESS THE DISTRICT COURT GRANTS THE PERSON
7 MORE TIME TO PREPARE FOR THE HEARING. THE DISTRICT COURT SHALL
8 NOT PLACE A BURDEN ON THE STATE AT THE HEARING. THE DISTRICT
9 COURT SHALL NOT CONSIDER THE PERSON'S GUILT OR INNOCENCE DURING
10 THE HEARING. AT THE HEARING, THE DISTRICT COURT SHALL ORDER THE
11 PERSON EXTRADITED UNLESS THE PERSON CHALLENGING THE
12 EXTRADITION SHOWS BY A PREPONDERANCE OF THE EVIDENCE THAT:

13 (A) THE LAW ENFORCEMENT AGENCY IN THE ARRESTING
14 JURISDICTION DID NOT VERIFY THE VALIDITY OF THE ARREST WARRANT
15 AND DID NOT CONFIRM THAT THE WARRANT PERMITTED EXTRADITION
16 PRIOR TO THE PERSON'S ARREST, RESULTING IN AN UNCONSTITUTIONAL
17 ILLEGAL SEIZURE PURSUANT TO THE STATE CONSTITUTION OR THE UNITED
18 STATES CONSTITUTION;

19 (B) EXTRADITION OF THE PERSON WOULD VIOLATE THE STATE
20 CONSTITUTION OR THE UNITED STATES CONSTITUTION; OR

21 (C) THE PERSON APPEARING BEFORE THE COURT IS NOT THE
22 PERSON NAMED IN THE ARREST WARRANT.

23 (d) (I) **Eligibility for bail.** UNLESS THE TRIBAL COURT WITH
24 JURISDICTION OVER THE ARREST WARRANT REQUESTS THE PERSON BE
25 HELD WITHOUT BAIL, THE DISTRICT COURT MAY SET BAIL ON THE
26 EXTRADITION CASE. IF THE DISTRICT COURT RELEASES THE PERSON ON
27 BAIL, THE DISTRICT COURT SHALL ALSO SET A REVIEW HEARING DATE AND
28 A DEADLINE FOR THE PERSON TO TRAVEL TO THE TRIBAL COURT'S
29 JURISDICTION AND ANSWER THE ARREST WARRANT. IN SETTING THE
30 AMOUNT AND CONDITIONS OF BAIL, THE DISTRICT COURT SHALL CONSIDER
31 THE CONDITIONS NECESSARY TO ENSURE THE PERSON'S APPEARANCE
32 BEFORE THE DISTRICT COURT AND TO CONSIDER THE COMMUNITY'S
33 SAFETY. WHEN SETTING BAIL, THE DISTRICT COURT SHALL CONSIDER THE
34 AMOUNT OF BAIL ON THE TRIBAL COURT ARREST WARRANT.

35 (II) IF THE DISTRICT COURT RECEIVES NOTICE ON OR BEFORE THE
36 REVIEW HEARING FROM THE TRIBAL COURT THAT THE PERSON HAS
37 APPEARED BEFORE THE TRIBAL COURT, THE DISTRICT COURT SHALL
38 DISMISS THE EXTRADITION CASE.

39 (III) IF THE PERSON APPEARS BEFORE THE DISTRICT COURT BUT HAS
40 NOT APPEARED BEFORE THE TRIBAL COURT AS ORDERED, THE DISTRICT
41 COURT SHALL REVOKE THE EXTRADITION BOND AND ORDER THE PERSON
42 EXTRADITED.

43 (IV) IF THE PERSON FAILS TO APPEAR BEFORE THE DISTRICT COURT,

1 THE DISTRICT COURT SHALL ISSUE AN ARREST WARRANT AND ORDER
2 FORFEITURE OF THE EXTRADITION BOND AS SET FORTH IN SECTION
3 16-4-111 (3).

4 (3) **Extradition process.** (a) THE DISTRICT COURT SHALL GIVE
5 THE EXTRADITION ORDERS TO THE PERSON, THE PERSON'S COUNSEL, THE
6 PROSECUTION, THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE
7 PERSON, THE TRIBAL COURT, AND THE TRIBAL LAW ENFORCEMENT
8 AGENCY.

9 (b) IF THE DISTRICT COURT DETERMINES THAT THE PERSON MUST
10 BE HELD WITHOUT BAIL PENDING EXTRADITION, THE DISTRICT COURT
11 SHALL ORDER THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE
12 PERSON TO NOTIFY THE REQUESTING TRIBAL COURT WHEN ANY OTHER
13 LOCAL HOLDS ARE RESOLVED AND THE PERSON MAY BE TRANSPORTED TO
14 THE TRIBAL COURT'S JURISDICTION.

15 (c) WHEN THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE
16 PERSON NOTIFIES THE TRIBAL JURISDICTION THAT A PERSON IS AVAILABLE
17 FOR EXTRADITION, THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE
18 DISTRICT COURT OF THE DATE AND TIME OF THE NOTICE.

19 (d) (I) UPON RECEIVING A VALID ORDER FROM A DISTRICT COURT
20 AUTHORIZING THE EXTRADITION OF THE PERSON AND NOTIFICATION FROM
21 THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON THAT
22 THERE ARE NO LOCAL HOLDS PREVENTING TRANSPORT, THE TRIBE SHALL
23 ARRANGE TRANSPORT OF THE PERSON TO THE TRIBE'S DETENTION FACILITY
24 WITHOUT UNDUE DELAY UNLESS OTHERWISE AGREED UPON BY THE LAW
25 ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON AND THE LAW
26 ENFORCEMENT AUTHORITY OF THE TRIBAL JURISDICTION. THE TRIBE
27 SHALL TAKE CUSTODY OF THE PERSON WITHIN SEVENTY-TWO HOURS
28 AFTER RECEIPT OF THE EXTRADITION ORDER AND NOTICE THAT THE
29 PERSON IS AVAILABLE FOR TRANSPORT.

30 (II) NOTWITHSTANDING SUBSECTION (3)(d)(I) OF THIS SECTION TO
31 THE CONTRARY, IF A TRIBE IS NOT ABLE TO TAKE CUSTODY OF THE PERSON
32 WITHIN SEVENTY-TWO HOURS AFTER RECEIPT OF THE EXTRADITION ORDER
33 AND NOTICE THAT THE PERSON IS AVAILABLE FOR TRANSPORT, THE
34 DISTRICT COURT MAY, UPON A FINDING OF GOOD CAUSE, ADJUST THE TIME
35 FRAME AS NECESSARY FOR THE TRIBE TO TAKE CUSTODY OF THE PERSON.

36 (e) IF A DISTRICT COURT ORDERS EXTRADITION AND THE DISTRICT
37 COURT RECEIVES INFORMATION THAT THE TRIBAL JURISDICTION HAS
38 CUSTODY OF THE PERSON OR THE PERSON HAS APPEARED BEFORE THE
39 TRIBAL COURT, THE DISTRICT COURT SHALL DISMISS THE EXTRADITION
40 CASE AND ORDER THE EXTRADITION BOND RELEASED.

41 (f) EXCEPT FOR A DISTRICT COURT'S FINDING OF GOOD CAUSE TO
42 HOLD A PERSON LONGER THAN SEVENTY-TWO HOURS PURSUANT TO
43 SUBSECTION (3)(d)(II) OF THIS SECTION, THE LAW ENFORCEMENT AGENCY

1 WITH CUSTODY OF THE PERSON SHALL RELEASE THE PERSON IF THE TRIBE
2 HAS NOT TAKEN CUSTODY OF THE PERSON WITHIN THE TIME FRAME SET
3 FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION. A PERSON WHO HAS
4 BEEN HELD IN EXCESS OF THE TIME LIMIT SET FORTH IN SUBSECTION
5 (3)(d)(I) OF THIS SECTION MAY FILE A MOTION FOR RELEASE, AND UPON
6 RECEIPT OF THE MOTION, THE COURT SHALL CONDUCT AN IMMEDIATE
7 HEARING. IF THE COURT DETERMINES AT THE HEARING THAT THE PERSON
8 HAS BEEN HELD IN EXCESS OF THE TIME LIMIT SET FORTH IN SUBSECTION
9 (3)(d)(I) OF THIS SECTION, THE COURT SHALL ORDER THE PERSON'S
10 IMMEDIATE RELEASE."

11 Page 3, line 22, strike "**orders -**" and substitute "**orders - applicability**
12 **-**".

13 Page 5, line 2, after "STATE" insert "RESPONSIBLE FOR".

14 Page 5, after line 19 insert:

15 "(4) IF A TRIBAL COURT ISSUES AN ORDER RESCINDING THE TRIBAL
16 COURT'S ORIGINAL BEHAVIORAL COMMITMENT ORDER, THE STATE,
17 COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCIES; STATE COURTS;
18 HOSPITALS; BEHAVIORAL HEALTH FACILITIES; HEALTH-CARE PROVIDERS;
19 AND OTHERS WITHIN THE STATE RESPONSIBLE FOR PROVIDING SERVICES TO
20 THE PERSON SUBJECT TO A BEHAVIORAL HEALTH COMMITMENT ORDER
21 SHALL RECOGNIZE THE ORDER RESCINDING THE TRIBAL COURT'S ORIGINAL
22 BEHAVIORAL HEALTH COMMITMENT ORDER AND RELEASE THE PERSON
23 SUBJECT TO THE BEHAVIORAL HEALTH COMMITMENT ORDER.

24 (5) THIS SECTION APPLIES TO PEOPLE SUBJECT TO TRIBAL COURT
25 BEHAVIORAL HEALTH COMMITMENT ORDERS."

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