

SB 297 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/21

WHAT THE MEASURE DOES:

Permits judges of federally recognized Indian tribes in Oregon to directly commit individuals under their jurisdiction to the Oregon Health Authority. 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:

EFFECT OF AMENDMENT:

-1 Removes the 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."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 do so. Further, the statute that provides a process for tribal judges to make emergency civil commitments for individuals in Indian country (which in turn triggers the commitment process in circuit court) is limited in scope to those tribes that, under federal Public Law 83-280, have exclusive civil jurisdiction. In Oregon, those are the Confederated Tribes of Warm Springs and the Burns Paiute Tribe.

Through the government-to-government process, the Confederate Tribes of the Umatilla Indian Reservation has been working with the Governor's Office, the Department of Justice, and the Oregon Health Authority to devise a solution that will create a process for all tribal courts to initiate commitment proceedings or commit on an emergency basis individuals in Indian country who are in need of care.

Senate Bill 297 is the result of that government to government effort. It authorizes all of Oregon's federally recognized tribes to directly commit individuals to the Oregon Health Authority and 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, 426.180.