

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 25-009

BY SENATOR(S) Roberts and Danielson, Simpson, Amabile, Ball, Bridges, Carson, Cutter, Exum, Frizell, Gonzales J., Jodeh, Kipp, Kirkmeyer, Kolker, Lundeen, Marchman, Michaelson Jenet, Rodriguez, Snyder, Sullivan, Wallace, Weissman, Winter F., Coleman;
also REPRESENTATIVE(S) Weinberg and Joseph, Duran, Bacon, Bird, Boesenecker, Bradley, Clifford, Gonzalez R., Hamrick, Keltie, Lieder, Lindsay, Rydin, Stewart K., McCluskie.

CONCERNING RECOGNITION OF CERTAIN TRIBAL COURT ORDERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 7 to article 3 of title 16 as follows:

PART 7
RECOGNITION OF
TRIBAL COURT ARREST WARRANTS

16-3-701. Definitions. AS USED IN THIS PART 7, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(1) "STATE" MEANS THE STATE OF COLORADO.

(2) "TRIBAL COURT" MEANS ANY COURT OR OTHER FEDERALLY OR TRIBALLY ESTABLISHED TRIBUNAL OF A FEDERALLY RECOGNIZED TRIBE DULY ESTABLISHED PURSUANT TO FEDERAL LAW OR TRIBAL LAW, INCLUDING THE COURTS OF INDIAN OFFENSES, UTE MOUNTAIN UTE AGENCY, ORGANIZED PURSUANT TO 25 CFR PART 11.

(3) "TRIBE" MEANS THE SOUTHERN UTE INDIAN TRIBE, THE UTE MOUNTAIN UTE TRIBE, OR A FEDERALLY RECOGNIZED TRIBE ACKNOWLEDGED BY THE "FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT OF 1994", PUB.L. 103-454, 108 STAT. 4791.

16-3-702. Recognition of Tribal court orders - arrest warrants - full faith and credit. A STATE COURT SHALL GIVE FULL FAITH AND CREDIT TO AN ARREST WARRANT ISSUED BY A TRIBAL COURT OF A FEDERALLY RECOGNIZED TRIBE.

16-3-703. Recognition of Tribal court orders - arrest warrants - process. (1) UPON ISSUANCE OF A TRIBAL COURT ARREST WARRANT, A PEACE OFFICER IN THE STATE MAY APPREHEND THE PERSON IDENTIFIED IN THE TRIBAL WARRANT IF THE PEACE OFFICER VERIFIES THE VALIDITY OF THE WARRANT AND CONFIRMS THAT THE WARRANT PERMITS EXTRADITION. THE LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION MAY SURRENDER A PERSON ARRESTED PURSUANT TO A TRIBAL ARREST WARRANT TO THE LAW ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION IF THE LAW ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION IS AVAILABLE TO TAKE CUSTODY OF THE PERSON. IF THE LAW ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION IS NOT AVAILABLE TO TAKE CUSTODY OF THE PERSON, THE LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION SHALL HOLD THE PERSON IN THE COUNTY DETENTION FACILITY OF THE LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION. IF THE ARREST WARRANT IS NON-EXTRADITABLE OR IF THE BOND ON THE ARREST WARRANT IS A PERSONAL RECOGNIZANCE BOND, THE LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION MUST IMMEDIATELY RELEASE THE PERSON FROM STATE CUSTODY.

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

(b) IF A PERSON IS ARRESTED ON A TRIBAL COURT ARREST WARRANT AND THE LAW ENFORCEMENT AGENCY IN THE ARRESTING JURISDICTION DOES NOT SURRENDER THE PERSON IMMEDIATELY TO THE LAW ENFORCEMENT AGENCY OF THE TRIBAL JURISDICTION AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, A PEACE OFFICER OF THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON SHALL BRING THE PERSON BEFORE THE NEAREST COURT IN THE TIME FRAME DESCRIBED IN SECTIONS 13-10-111.5 (5) AND 16-4-102 (2)(a)(II). THE COURT SHALL APPOINT THE OFFICE OF THE STATE PUBLIC DEFENDER TO THE PERSON IF THE PERSON IS ELIGIBLE AND INFORM THE PERSON OF THE EXISTENCE OF THE ARREST WARRANT, THE NATURE OF THE ARREST WARRANT, AND THE PERSON'S RIGHTS, INCLUDING THE RIGHT TO COUNSEL, THE RIGHT TO REMAIN SILENT, THE RIGHT TO CONTEST THE LEGALITY OF THE EXTRADITION REQUEST, AND THE RIGHT TO WAIVE EXTRADITION AND KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY AGREE TO RETURN TO THE TRIBAL JURISDICTION.

(c) (I) THE ARRESTED PERSON IDENTIFIED IN SUBSECTION (2)(b) OF THIS SECTION MAY, IN THE PRESENCE OF THE COURT, SIGN A WAIVER OF EXTRADITION VERIFYING THAT THE PERSON CONSENTS TO THE RETURN TO THE TRIBAL JURISDICTION. BEFORE THE PERSON SIGNS THE WAIVER OF EXTRADITION, THE COURT SHALL INFORM THE PERSON OF THE PERSON'S RIGHT TO TEST THE LEGALITY OF THE EXTRADITION REQUEST.

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

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

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

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

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

(II) IF THE COURT RECEIVES NOTICE FROM THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON OR THE DISTRICT ATTORNEY ON OR BEFORE THE REVIEW HEARING FROM THE TRIBAL COURT THAT THE PERSON HAS APPEARED BEFORE THE TRIBAL COURT, THE COURT SHALL DISMISS THE EXTRADITION CASE.

(III) IF THE PERSON APPEARS BEFORE THE COURT BUT HAS NOT APPEARED BEFORE THE TRIBAL COURT AS ORDERED, UPON NOTICE FROM THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON OR THE DISTRICT ATTORNEY, THE COURT SHALL REVOKE THE EXTRADITION BOND AND ORDER THE PERSON EXTRADITED.

(IV) IF THE PERSON FAILS TO APPEAR BEFORE THE COURT, THE COURT SHALL ISSUE AN ARREST WARRANT AND ORDER FORFEITURE OF THE EXTRADITION BOND AS SET FORTH IN SECTION 16-4-111 (3).

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

(b) IF THE COURT DETERMINES THAT THE PERSON MUST BE HELD

WITHOUT BAIL PENDING EXTRADITION, THE COURT SHALL ORDER THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON TO NOTIFY THE REQUESTING TRIBAL COURT WHEN ANY OTHER LOCAL HOLDS ARE RESOLVED AND THE PERSON MAY BE TRANSPORTED TO THE TRIBAL COURT'S JURISDICTION.

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

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

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

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

(f) EXCEPT FOR A COURT'S FINDING OF GOOD CAUSE TO HOLD A PERSON LONGER THAN SEVENTY-TWO HOURS PURSUANT TO SUBSECTION (3)(d)(II) OF THIS SECTION, THE LAW ENFORCEMENT AGENCY WITH CUSTODY OF THE PERSON SHALL RELEASE THE PERSON IF THE TRIBE HAS NOT TAKEN

CUSTODY OF THE PERSON WITHIN THE TIME FRAME SET FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION. A PERSON WHO HAS BEEN HELD IN EXCESS OF THE TIME LIMIT SET FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION MAY FILE A MOTION FOR RELEASE, AND UPON RECEIPT OF THE MOTION, THE COURT SHALL CONDUCT AN IMMEDIATE HEARING. IF THE COURT DETERMINES AT THE HEARING THAT THE PERSON HAS BEEN HELD IN EXCESS OF THE TIME LIMIT SET FORTH IN SUBSECTION (3)(d)(I) OF THIS SECTION, THE COURT SHALL ORDER THE PERSON'S IMMEDIATE RELEASE.

SECTION 2. In Colorado Revised Statutes, **add** 27-65-132 as follows:

27-65-132. Recognition of Tribal court commitment orders - applicability - process - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BEHAVIORAL HEALTH COMMITMENT ORDER" OR "COMMITMENT ORDER" INCLUDES:

(I) EMERGENCY MENTAL HEALTH HOLDS AS DESCRIBED IN SECTION 27-65-106 OR AS DESCRIBED IN TRIBAL CODES;

(II) CERTIFICATION FOR SHORT-TERM TREATMENT AS DESCRIBED IN SECTION 27-65-109 OR AS DESCRIBED IN TRIBAL CODES;

(III) LONG-TERM CARE AND TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS AS DESCRIBED IN SECTION 27-65-110 OR AS DESCRIBED IN TRIBAL CODES;

(IV) AN EMERGENCY COMMITMENT AS DESCRIBED IN SECTION 27-81-111 OR AS DESCRIBED IN TRIBAL CODES;

(V) AN INVOLUNTARY COMMITMENT OF A PERSON WITH A SUBSTANCE USE DISORDER AS DESCRIBED IN SECTION 27-81-112 OR AS DESCRIBED IN TRIBAL CODES; OR

(VI) A COMMITMENT ORDER PERMITTED BY FEDERAL, STATE, OR TRIBAL LAW.

(b) "STATE" MEANS THE STATE OF COLORADO.

(c) "TRIBAL COURT" MEANS ANY COURT OR OTHER FEDERALLY OR TRIBALLY ESTABLISHED TRIBUNAL OF A FEDERALLY RECOGNIZED TRIBE DULY ESTABLISHED PURSUANT TO FEDERAL LAW OR TRIBAL LAW, INCLUDING THE COURTS OF INDIAN OFFENSES, UTE MOUNTAIN UTE AGENCY, ORGANIZED PURSUANT TO 25 CFR PART 11.

(d) "TRIBE" MEANS THE SOUTHERN UTE INDIAN TRIBE, THE UTE MOUNTAIN UTE TRIBE, OR A FEDERALLY RECOGNIZED TRIBE ACKNOWLEDGED BY THE "FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT OF 1994", PUB.L. 103-454, 108 STAT. 4791.

(2) THE STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCIES; STATE COURTS; HOSPITALS; BEHAVIORAL HEALTH FACILITIES; HEALTH-CARE PROVIDERS; AND OTHERS WITHIN THE STATE RESPONSIBLE FOR PROVIDING SERVICES TO THE PERSON SUBJECT TO A BEHAVIORAL HEALTH COMMITMENT ORDER SHALL RECOGNIZE A COMMITMENT ORDER ENTERED BY THE TRIBAL COURT OF A FEDERALLY RECOGNIZED TRIBE AND THAT CONCERNS A PERSON UNDER THE TRIBAL COURT'S JURISDICTION TO THE SAME EXTENT AS A COMMITMENT ORDER ENTERED BY A STATE COURT.

(3) A HEALTH-CARE PROVIDER MAY COMMUNICATE WITH THE OFFICERS OF A TRIBAL COURT REGARDING A PATIENT UNDER THE HEALTH-CARE PROVIDER'S CARE PURSUANT TO A TRIBAL COURT COMMITMENT ORDER DESCRIBED IN SUBSECTION (2) OF THIS SECTION, TO THE SAME EXTENT THAT THE HEALTH-CARE PROVIDER CAN COMMUNICATE WITH OFFICERS OF A COURT PURSUANT TO A STATE COURT COMMITMENT ORDER. COMMUNICATIONS MAY INCLUDE THE NATURE OF THE TREATMENT NEEDED AND PROVIDED, A PATIENT'S MEDICAL AND MENTAL HEALTH STATUS, THE EXTENT TO WHICH THE PATIENT POSES A DANGER TO THE PATIENT'S SELF OR THE COMMUNITY, AND, IF NECESSARY, THE NEED FOR ADDITIONAL TREATMENT.

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

BEHAVIORAL HEALTH COMMITMENT ORDER.

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

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO