



STATE OF WASHINGTON
Office of the Governor

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PROCLAMATION BY THE GOVERNOR
14-01

WHEREAS, on March 19, 2012, Governor Christine Gregoire signed Engrossed Substitute House Bill 2233, "Creating a procedure for the state's retrocession of civil and criminal jurisdiction over Indian tribes and Indian country"; and

WHEREAS, Engrossed Substitute House Bill 2233, which became Chapter 48, Laws of 2012, creates a process by which the state of Washington (hereafter, "the State") may retrocede to the United States all or part of the civil and criminal jurisdiction previously acquired by the State over a federally recognized Indian tribe, and the Indian country of such tribe, under federal Public Law 280, Act of August 15, 1953; and

WHEREAS, on March 13, 1963, in accordance with federal Public Law 280, Act of August 15, 1953, the State assumed partial civil and criminal jurisdiction, subject to the limitations in RCW 37.12.021 and RCW 37.12.060, within the Indian country of the Confederated Tribes and Bands of the Yakama Nation (hereafter, "Yakama Nation") pursuant to Chapter 36, Laws of 1963; and

WHEREAS, after March 13, 1963, the Yakama Nation did not invoke with the State the provision of RCW 37.12.021 but chose to rely upon the rights and remedies of its Treaty of 1855 with the United States, 12 Stat. 951 and federal laws; and

WHEREAS, on January 11, 1980, the Assistant Secretary-Indian Affairs, United States Department of the Interior, approved the Yakama Nation's petition for re-assumption of jurisdiction over Indian child custody proceedings under the Indian Child Welfare Act of 1978. Effective March 28, 1980, the Yakama Nation reassumed jurisdiction over Yakama Indian child custody proceedings; and

WHEREAS, on July 17, 2012, the Yakama Nation filed a retrocession petition with the Office of the Governor. The retrocession petition by the Yakama Nation requests full retrocession of civil and criminal jurisdiction on all of Yakama Nation Indian country and in five areas of RCW 37.12.010, including: Compulsory School Attendance; Public Assistance; Domestic Relations; Juvenile Delinquency; and Operation of Motor Vehicles on Public Streets, Alleys, Roads, and Highways; and

WHEREAS, Governor Gregoire convened government-to-government meetings with the Yakama Nation to discuss the Nation's retrocession petition. In the course of those meetings, the Yakama Nation and Governor Gregoire confirmed that the Yakama Nation asks the State to retrocede all jurisdiction assumed pursuant to RCW 37.12.010 in 1963 over the Indian country of the Yakama Nation, both within and without the external boundaries of the Yakama Reservation. However, the Yakama Nation requests that the State retain jurisdiction over mental illness as provided in RCW 37.12.010(4), and jurisdiction over civil commitment of sexually violent predators under RCW 71.09, and acknowledges that the State would retain criminal jurisdiction over non-Indian defendants; and

WHEREAS, Governor Jay Inslee convened further government-to-government meetings between the State and Yakama Nation. The Governor's Office has also consulted with elected officials from the jurisdictions proximately located to the Yakama Nation's Indian country; and

WHEREAS, on July 9, 2013, Governor Inslee exercised the six-month extension provision for issuing a proclamation, pursuant to RCW 37.12.160; and

WHEREAS, strengthening the sovereignty and independence of the federally recognized Indian tribes within Washington State is an important priority for the State; and

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, by virtue of the authority vested in me by Section 37.12.160 of the Revised Code of Washington, do hereby grant in part, and deny in part, the retrocession petition submitted by the Confederated Tribes and Bands of the Yakama Nation, according to the following provisions:

1. Within the exterior boundaries of the Yakama Reservation, the State shall retrocede full civil and criminal jurisdiction in the following subject areas of RCW 37.12.010: Compulsory School Attendance; Public Assistance; Domestic Relations; and Juvenile Delinquency.
2. Within the exterior boundaries of the Yakama Reservation, the State shall retrocede, in part, civil and criminal jurisdiction in Operation of Motor Vehicles on Public Streets, Alleys, Roads, and Highways cases in the following manner: Pursuant to RCW 37.12.010(8), the State shall retain jurisdiction over civil causes of action involving non-Indian plaintiffs, non-Indian defendants, and non-Indian victims; the State shall retain jurisdiction over criminal offenses involving non-Indian defendants and non-Indian victims.
3. Within the exterior boundaries of the Yakama Reservation, the State shall retrocede, in part, criminal jurisdiction over all offenses not addressed by Paragraphs 1 and 2. The State retains jurisdiction over criminal offenses involving non-Indian defendants and non-Indian victims.

4. Jurisdiction over Indian child custody proceedings under RCW 37.12.010(3) and Adoption proceedings and Dependent Children pursuant to RCW 37.12.010(6) and (7), which the Yakama Nation reassumed in 1980 under the Indian Child Welfare Act, shall remain under the exclusive jurisdiction of the Yakama Nation.
5. Outside the exterior boundaries of the Yakama Reservation, the State does not retrocede jurisdiction. The State shall retain all jurisdiction it assumed pursuant to RCW 37.12.010 in 1963 over the Yakama Nation's Indian country outside the Yakama Reservation.
6. Nothing herein shall affect the State's civil jurisdiction over the civil commitment of sexually violent predators pursuant to chapter 71.09 RCW and the State must retain such jurisdiction notwithstanding the completion of the retrocession process authorized under RCW 37.12.160.
7. Pursuant to RCW 37.12.010, the State shall retain all jurisdiction not specifically retroceded herein within the Indian country of the Yakama Nation.
8. This Proclamation does not affect, foreclose, or limit the Governor's authority to act on future requests for retrocession under RCW 37.12.160.


Signed and sealed with the official seal of the state of Washington this 17th day of January, A.D. Two-thousand and Fourteen, at Olympia, Washington.



By:

Jay Inslee, Governor

BY THE GOVERNOR:


Secretary of State

JAY INSLEE
Governor



STATE OF WASHINGTON
Office of the Governor

January 27, 2014

The Honorable Kevin Washburn
Assistant Secretary of Indian Affairs
U.S. Department of Interior
MS-4141 –MIB
1849 C. Street, N.W.
Washington, D.C. 20240

Re: Yakama Nation Retrocession Petition

Dear Assistant Secretary Washburn:

Pursuant to 25 U.S.C. §1323 and Revised Code of Washington (RCW) 37.12, I have included the attached proclamation, signed by me on January 17, 2014. The proclamation addresses a retrocession petition submitted by the Confederate Tribes and Bands of the Yakama Nation in Washington State.

On March 19, 2012, former Washington State Governor Christine Gregoire signed Engrossed Substitute House Bill 2233. This important piece of legislation created a process by which the state of Washington may retrocede to the United States civil and criminal jurisdiction previously acquired by the State over a federally recognized Indian tribe under federal Public Law 280 in 1953. The bill gives the Governor of the state of Washington the authority to approve, in whole or in part, a retrocession petition submitted by a Washington State Indian tribe. Final approval rests with the U.S. Department of the Interior.

On July 17, 2012, the Yakama Nation filed a retrocession petition with the Office of the Governor requesting full civil and criminal jurisdiction on all of Yakama Nation Indian country in five specific areas of RCW 37.12.010. I believe that the enclosed Proclamation is a great first step towards strengthening the sovereignty and independence of the Yakama Nation.

In paragraph one of the proclamation, the State grants exclusive civil and criminal jurisdiction within the exterior boundaries of the Yakama Reservation in four subject areas of RCW 37.12.010: Compulsory School Attendance; Public Assistance; Domestic Relations; and Juvenile Delinquency.

In paragraph two, the proclamation also grants to the Yakama Nation civil and criminal jurisdiction within the exterior boundaries of the reservation in Operation of Motor Vehicles on Public Streets, Alleys, Roads, and Highways cases which do not involve non-Indian plaintiffs, non-Indian defendants, or non-Indian victims. I would note that the proclamation itself states that the State will retain jurisdiction in these cases over civil causes of action involving “non-Indian



plaintiffs, non-Indian defendants, *and* non-Indian victims,” as well as in criminal cases involving “non-Indian defendants *and* non-Indian victims.” The intent set forth in paragraph two, however, is for the State to retain jurisdiction in this area where *any* party is non-Indian, and therefore may be more properly read in both instances as the State retaining jurisdiction in those cases involving “non-Indian plaintiffs, non-Indian defendants *and/or* non-Indian victims.” I respectfully request that the Department make this clear in the notice accepting the retrocession Proclamation.

Finally, in paragraph three of the proclamation, the State is also retroceding criminal jurisdiction within the exterior boundaries of the reservation over all offenses not specifically addressed in paragraphs one and two, which do not involve non-Indian defendants or non-Indian victims. Again, I would note that in this paragraph the proclamation states that the State retains jurisdiction over criminal offenses involving “non-Indian defendants *and* non-Indian victims,” but the intent is for the State to retain such jurisdiction in those cases involving non-Indian defendants *and/or* non-Indian victims.”

The proclamation does deny part of the petition by the Yakama Nation, and allow the State to retain existing civil and criminal jurisdiction in a limited number of areas. First and foremost, the State is retaining its existing jurisdiction outside of the exterior boundaries of the Yakama Reservation, including all trust and fee lands. Moreover, consistent with the description above, the State is retaining civil and criminal jurisdiction in Operation of Motor Vehicle cases that involve non-Indian plaintiffs, non-Indian defendants, and/or non-Indian victims.

It is important to note that nothing in the proclamation changes the existing jurisdiction the Yakama Nation has over Indian child custody proceedings under RCW 37.12.010(3) and Adoption proceedings and Dependent Children pursuant to RCW 37.12.010(6) and (7). The Yakama Nation reassumed jurisdiction over these subjects in 1980 under the Indian Child Welfare Act, and shall remain under the exclusive jurisdiction of the Yakama Nation.

Similarly, nothing in the proclamation shall affect the State’s civil jurisdiction over the civil commitment of sexually violent predators pursuant to chapter 71.09 RCW and the State must retain such jurisdiction notwithstanding the completion of the retrocession process authorized under RCW 37.12.160.

Thank you for accepting this proclamation on behalf of the state of Washington and for working to bring the retrocession petition to fruition. I look forward to continue working with you and the Yakama Nation on this issue moving forward.

Sincerely,



Jay Inslee
Governor