

Testimony in support of Senate Bill 2056 pertaining to Tribal Arrest Warrants submitted by:

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Short history:

I first started this discussion in the late fall of 2022 at a State and Tribal Court Relations Committee meeting. Because it seemed like a legitimate issue with a potentially simple legislative fix, it seemed like there was some positive feedback. Sara Behrens then assisted with drafting the proposed amendment to section 29-06.1 of the North Dakota Century Code to address the issue. However, because of time constraints and my ignorance of the process, I failed to get the proposal in front of the right folks for consideration prior to that legislative session.

Current Status:

The current version of 29-06.1 requires that persons who are subject to tribal arrest warrants be brought without “unnecessary delay” before the nearest available district judge. Depending on the day and time of the arrest and court/judge schedules (especially over holidays and/or otherwise long weekends) it could take 5-7 days for a person to see a Judge. A very high percentage of the time, once the person is brought before a judge, they waive their right to a judicial extradition hearing because they acknowledge that the warrant exists and that they are the person named in the warrant. Although the person will inevitably be given credit for any time served in county jail toward their tribal court sentence, many times the sentence for the underlying crime won’t result in actual jail time. However, for a potential multitude of reasons, that person may not be a candidate for a personal recognizance bond and/or promise to appear.

Associated Issues:

First – The unnecessary county/state expense associated with the incarceration of tribal inmates pending appearance in front of a district court judge. I originally prepped these numbers in October of 2024 for presentation to the Legislative Committee. In 2023, there were fifty six (56) tribal extraditions from Ramsey County to Spirit Lake. The cost per day to house an inmate at the Lake Region Law Enforcement Center is ninety dollars (\$90). Assuming inmates wait an average of four (4) days to see a district judge, the unnecessary cost to that single county to house just Spirit Lake defendants in 2023 was \$20,160.

Second – Far more important than expense to the county, is the impact that unnecessary jail time might have a person’s life. In the legal world, I think we sometimes become numb to the idea of “jail” and the affect it might have a person’s mental and physical health as well as their life situation. Besides the obvious mental and physical effects of time spent in jail, even one (1) extra night/day in jail could lead to the loss of employment. That loss of employment has the potential to steam roll into numerous other issues like loss of housing, credit issues, etc...

Solution:

Waiver of a judicial extradition hearing without having to wait to appear in front of a district court judge. As I noted earlier, most people readily acknowledge that they are the subject of a tribal court warrant and would rather not wait to see a judge before getting on with the process. Spirit Lake has had a municipal, state, federal & tribal extradition statute on the books since 2015. The exact text of the section of the Spirit Lake statute that is applicable and relevant to SB 2056 and my testimony today is below. In essence, the statute allows the person to waive their right to an extradition hearing by signing a written waiver in the presence of a corrections or law enforcement officer. We have that waiver and the applicable order on a one page document in a fillable and non-fillable form that can be completed via hand or on a computer, presented in person or electronically to a judge instantly for signature and begin the extradition process immediately. An example of what I envision a similar state/county form to look like is attached to my testimony. The process works very well. Upwards of ninety percent (90%) of defendants subject to extradition by the Spirit Lake Tribal Court execute waivers before I ever see them and are in county custody within a matter of hours instead of days.

Waiver of Hearing

Any person arrested on a warrant issued outside the jurisdiction of the Spirit Lake Tribal Court may waive the right to an extradition hearing in Tribal Court and consent to return to the applicable jurisdiction by executing a written waiver in the presence of a correctional officer, police officer and/or judge of the Tribal Court. If a waiver is executed, the Tribal Court shall issue an order transferring custody of that person to the applicable jurisdiction or, with the consent of the applicable jurisdiction, authorize the voluntary return of the person to the applicable jurisdiction.

For reasons stated, I strongly encourage and support the passage of SB 2056. Thank you for your time and consideration, it is greatly appreciated. If you have any questions, comments and/or concerns, please feel free to contact me at any time.

Sincerely,



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