Washington State
Tribal Behavioral Health Model

American Indian Health Commission

www.aihc-wa.com

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About Us

American Indian Health Commission

Pulling Together for Wellness

Established in 1994, we are a Tribally-driven, non-profit organization providing a forum for the twenty-nine tribal governments and two urban Indian health programs in Washington State to work together to improve health outcomes for American Indians and Alaska Natives.

Land Acknowledgement

I would like to begin by acknowledging that as we gather today, we are all on the ancestral homelands of indigenous people. Today we are meeting across the lands of hundreds of Tribes.

Indigenous people, despite being removed from the lands where they lived, hunted, gathered, practice ceremonies and cared for their community members. Indigenous people and Tribes, whether “official” recognized by the United States Government or not, continue to care for these lands and their community members. As health professionals, it is important that we also acknowledge the impacts of the removal from traditional lands, of children stolen to boarding schools, of the oppression of cultural and traditional ways of life on the health of indigenous people throughout the country and in Washington State.

As we work to improve health across the Northwest, it is imperative that we address the inequities of the past by understanding their impact of the present. I invite each of you to learn about and understand the true history of the indigenous lands where you reside on.

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Presentation Overview

PART I: Tribes and Indian Health Care Providers (IHCPs): Integral Components of State Behavioral Health Systems

PART II: The Need for Legislation Reform

PART III: 6 Key Reforms

PART IV: Tribal and State Governance Tools

PART V: Outcomes & Adjustments

PART VI: Resources

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PART I: Tribes and IHCPs: Integral Components of State Behavioral Health Systems

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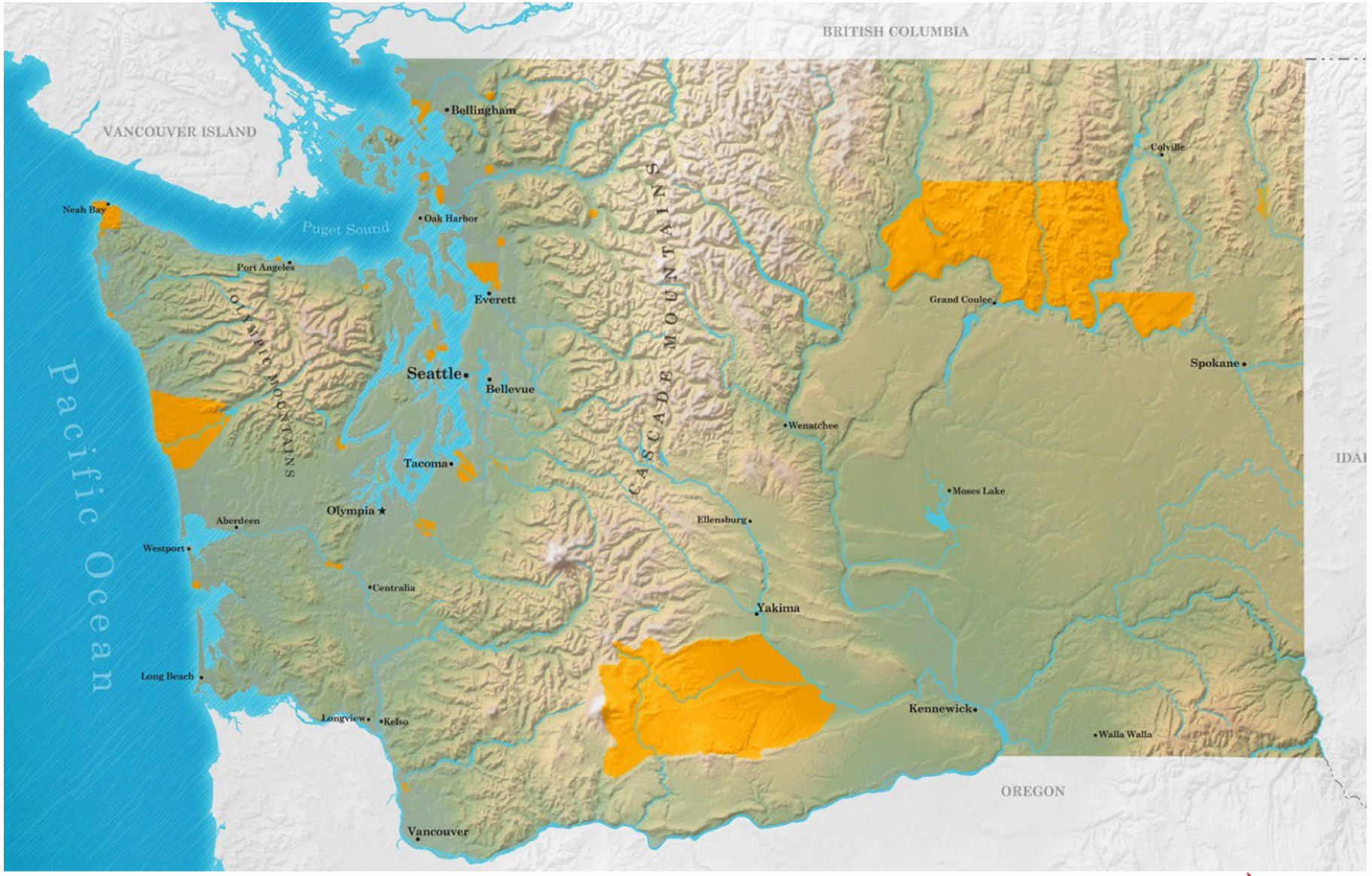
- **29** Tribal Nations
- **2** Urban Indian Health Organizations
- **3** (Federal) Indian Health Service (IHS) Service Units



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Indian Behavioral Care Health Providers:

A Key Component of the Washington State Behavioral Health System

Source: Cornerstone GCI, Lummi Nation Wellness Center

- Washington state citizens, both native and non-native, benefit from a multitude of **Indian Health Care Providers (IHCPs)** that provide behavioral health services to Washington state citizens including **outpatient mental health, outpatient substance use disorder (SUD), inpatient BH programs, and BH crisis response services.**

- Tribes, through use of Tribal designated crisis responders, Tribal courts, Tribal law enforcement, Tribal corrections, and Tribal behavioral health staff, are expanding resources to meet the needs of more Washington state citizens including those who reside in **rural areas** where state resources are limited and those who have been historically underserved.

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IHCPs are Critical in AI/AN BH Crisis Response

- Trusted and familiar relationship between the Tribal member, families, and the IHCP.
- IHCPs serve their members Birth to Death.
- IHCPs are culturally sensitive.
- Continuity of care. IHCPs are familiar with wrap around services and what is available in the community. Those serves will always be more culturally appropriate than services outside the community.
- Stronger follow-up care with Tribal member experiencing crisis.

Tulalip Tribal Health Clinic

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Tribal Courts are Critical in AI/AN BH Crisis Response

- Tribal members and their family are more likely to share critical information with a Tribal Court than a State Superior Court or Commissioner.
- Tribal Courts are culturally sensitive.
- Continuity of care. Tribal Courts are familiar with wrap around services and coordination.
- Stronger follow-up care with Tribal member experiencing crisis.

Colville Tribal Court

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PART II: The Need for Legislation Reform

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STATE OF EMERGENCY

AI/AN Suicide and Opioid Crisis

- AI/AN between the ages of 10 and 29 account for **63%** of Washington State AI/AN emergency department visits for suicide attempts in 2020.[1]
- AI/AN were 1.6 times more likely to have a suicide attempt than non-AI/AN. [1]
- Nationally, the highest suicide rates among (AI/AN) are for adolescents and young adults.[2]
- Since 2001, the suicide mortality rate for AI/AN in this state has increased by **58%** which is more than **3x** the rate of increase among non-AI/AN. [2]

[1] "Trends in Suicide-Related Emergency Department Visits among American Indians and Alaska Natives in Washington During COVID-19," Northwest Indian Health Board. https://www.npaihb.org/wp-content/uploads/2021/05/WA-Suicide-ED-fact-sheet.pdf.

[2] SB 6259.

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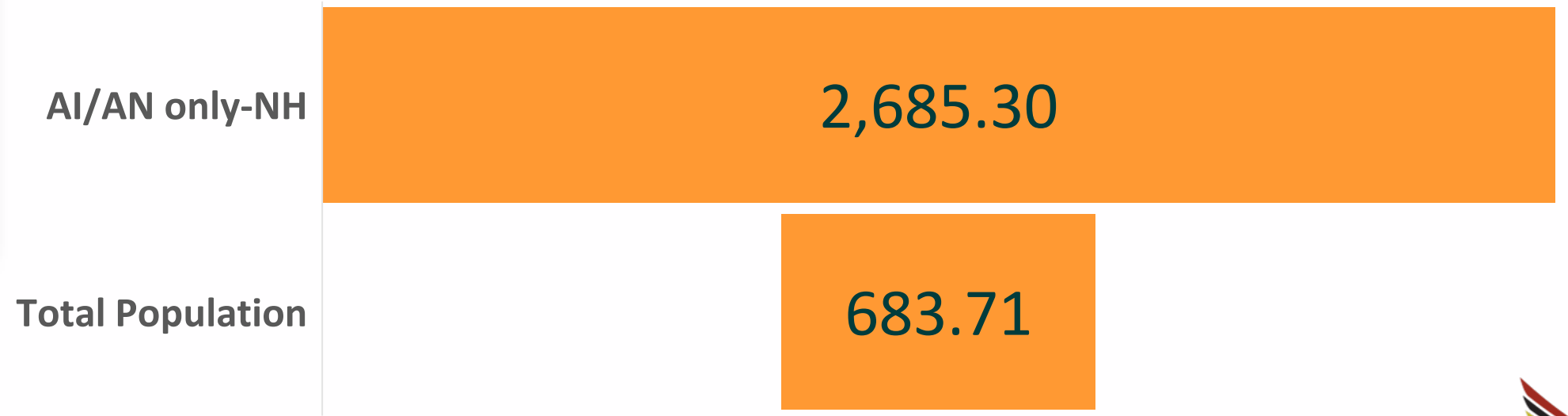
Disparities in Premature Deaths

2022 Opioid related Years of Potential Life Lost per 100,000 in Washington:

4 Times the rate for AI/AN population vs. Total Population

Source: Washington State Department of Health, Center for Health Statistics, Death Certificate Data, 1990–2022, Community Health Assessment Tool (CHAT), November 2023.



RATE = years of potential life lost relative to age 65 per 100,000 population. (Count = number of YPLL65)
Source: Washington State Department of Health, Center for Health Statistics, Death Certificate Data, 1990–2021, Community Health Assessment Tool (CHAT), October 2022.

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Tribal-State BH Coordination Legislation

2020

HB 6259

Improving the Indian Behavioral Health System

2024

HB 1877

Coordination and Recognition with Indian Behavioral Health System

Recognized and included Tribal courts, Tribal law enforcement agencies, and Indian behavioral health systems to better serve AI/AN Washington state citizens as well non-AI/AN state citizens

Removed Jurisdictional Barriers to ensure Tribes can fully participate in the crisis process and increase access to care that meets the unique needs of AI/AN.

Increased access to **culturally appropriate behavioral health care.**

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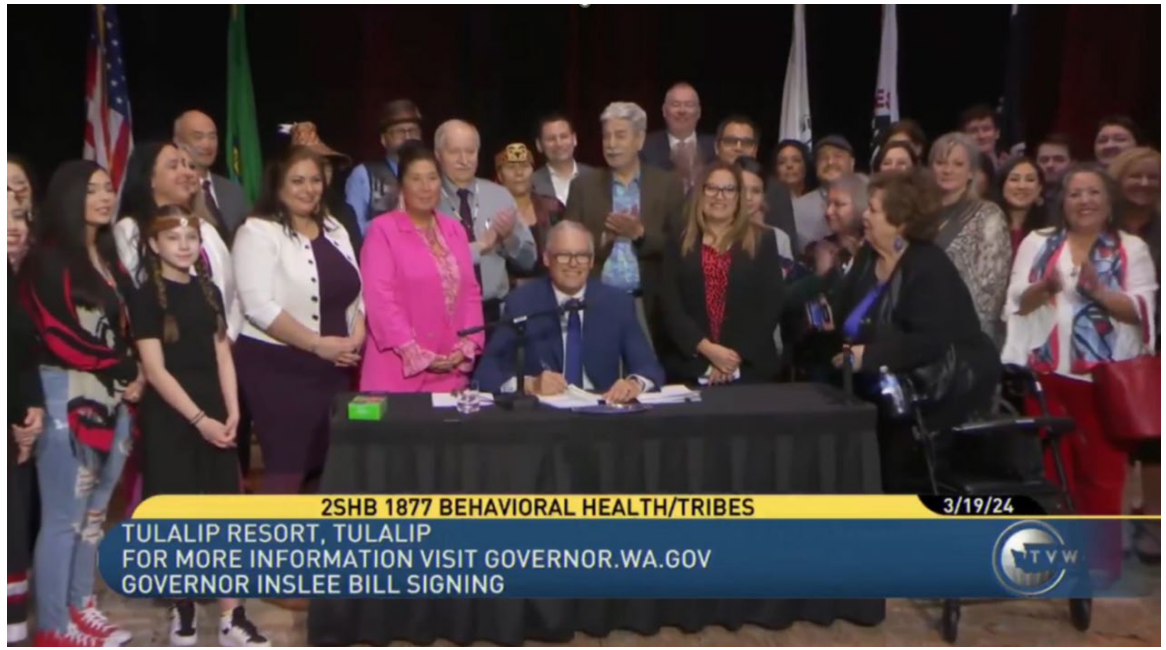
HB 6259 and HB 1877 Bill Contributors



- Tribal Representatives including Tribal leaders, Tribal behavioral health providers, Tribal judges, Tribal law enforcement
- American Indian Health Commission
- State Medicaid agency (HCA)
- Representatives from Washington Designated Crisis Responder Association

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PART III: 6 Key Reforms

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6 Key Reforms

1. Recognition of the Indian Behavioral Health System
2. Notification Requirements to Tribes and IHCPs
3. Recognition of Tribal Right to Conduct Crisis Response
4. Tribal Right to Intervene in State Court
5. Acceptance of Tribal Court Orders by Facilities
6. Increased Sharing of Behavioral Health Information

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1. Recognition of the Indian Behavioral Health System

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Recognition of Indian Health Care Provider in State Law

"Indian health care provider" means a health care program operated by the Indian health service or by a Tribe, Tribal organization, or urban Indian organization as those terms are defined in 25 U.S.C. Sec. 1603.

RCW 43.71B.010

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Inclusion of Tribes in Behavioral Health Service Provider Definition

"Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, …. **an entity with a Tribal attestation that it meets minimum standards**.

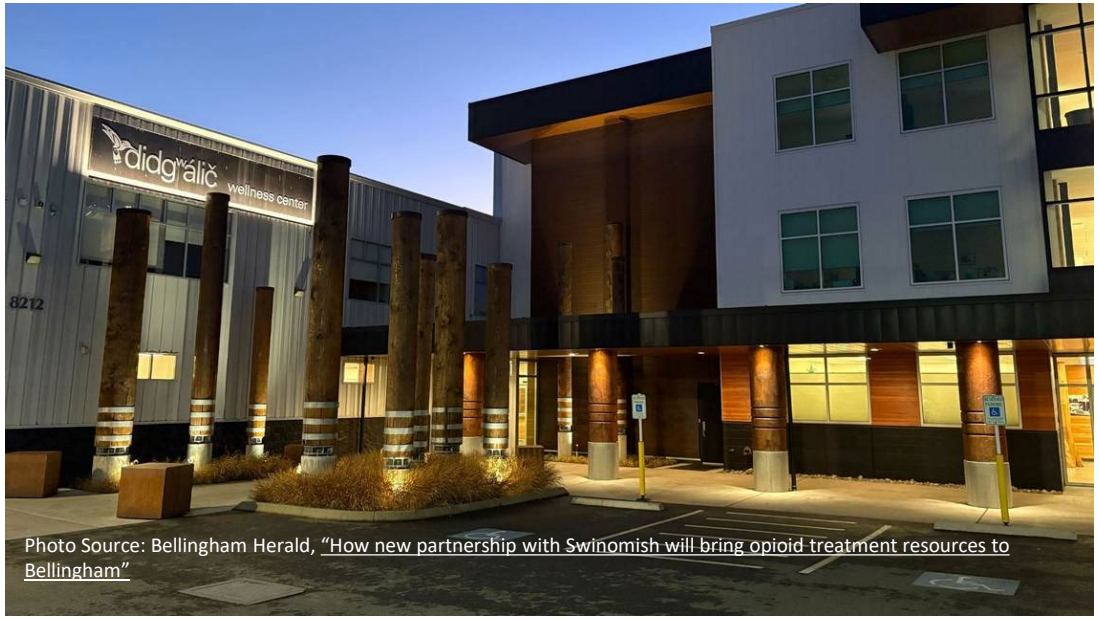

Photo Source: Bellingham Herald, "How new partnership with Swinomish will bring opioid treatment resources to Bellingham"

RCW 71.05.020; RCW 70.02.010

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2. Notification Requirements to Tribes and IHCPs

Notification to Tribes and IHCP re Their Tribal member patients

- Tribes must be notified and copied on all inpatient treatment and assisted outpatient petitions/orders. RCW 71.05.150; RCW 71.34.710; RCW 71.05.148; RCW 71.34.815
- Tribes must be provided notice of facility discharge. RCW 71.05.435
- Tribes must be provided notice for Less Restrictive Alternatives or Conditional Release revocations. RCW 71.05.590; RCW 71.34.780

More information, see House Bill 1877 Patient Privacy Document.

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3. Recognition of Tribal Right to Conduct Crisis Response

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Tribal Government Authority to Provide Behavioral Health Services

Tribal governments have the "sovereign authority…to act as ***public health authorities*** in providing for the health and safety of their community members including those individuals who may be ***experiencing a behavioral health crisis***."*

*Washington Health Improvement Act, SB 5415 (codified at RCW 43.71B.901); See also COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 5.01 (Nell Jessup Newton & Kevin K. Washburn, eds., 2024); Aila Hoss, Toward Tribal Health Sovereignty, 2022 Wis. L. Rev. 413, 419 (2022)("Protecting the public's health, safety, and welfare is among the core powers and duties of sovereign governments.").

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Designated Crisis Responder (DCR)

"Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the **authority in consultation with a [T]ribe or after meeting and conferring with an Indian health care provider**, to perform the duties specified in this chapter.

RCW 71.05.020

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Tribal Designated Crisis Responder

Tribes and their behavioral health programs can employ or contract with a State-Certified Tribal Designated Crisis Responder to respond to Tribal community members experiencing behavioral health crisis and conduct involuntary commitment process in BOTH state court and Tribal court.

WAC 182-125-0100

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Tribal Designated Crisis Responder Models in Washington

State Control — Tribal Control

County [State] DCR
- Petitions State Court
- Follows state code

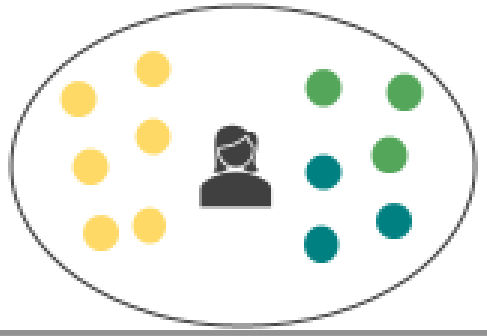
Tribal DCR
- Chosen by the Tribe and appointed by the HCA
- Petitions in State Court

Tribal or County [State] DCR
- Tribe recognizes Tribal DCR in Tribal Court
- Follows state and/or tribal codes

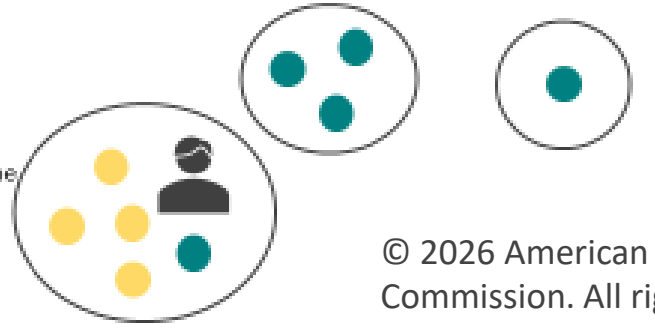
Name TBD
- Tribal Code grants mental health professional and/or substance use professional authority to petition Tribal Court for involuntary commitment

A **Tribal DCR** is a professional authorized to petition for involuntary treatment in the state system.

Staffing Example 1
- Works at one Tribe
- Wears state and Tribal hats depending on situation



Staffing Example 2
- Primary counselor at one Tribe
- Tribal DCR authority at several Tribes



Support Tribal DCRs in State Court System

- Health Care Authority notifies all Superior Courts of Tribal DCRs
- State DCR agencies support Tribal DCRs with training, shadowing, and tips on court petitions.
- WA Administration Office of the Courts (AOC) has developed and updated **court forms** as needed in state court behavioral health proceedings. Tribal DCRs can use the court forms developed by the AOC in superior courts.

RCW 71.05.337(3); RCW 71.34.312(3)

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4. Tribal Right to Intervene in State Court

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Tribal Right to Intervene in State Court Behavioral Health Proceedings

"Right to Intervene" means the rights of the Tribal attorney to:

- Attend court proceedings;
- Speak in court;
- Request copies of orders issued by the court and petitions filed;
- Submit information to the court including, but not limited to, information about available Tribal resources to coordinate services; and
- Petition the court under Joel's Law (RCW 71.05.201).

RCW 71.05.337(1)(a); RCW 71.34.312(1)(a)

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Tribes Added to Joel's Law

Tribes are now included in list of individuals/entities that can file a petition for initial detention under Joel's law.

RCW 71.05.201

How to file a petition for initial detention of a family member

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5. Acceptance of Tribal Court Orders by Facilities

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Acceptance of Tribal Court Orders by Behavioral Health Service Providers

Behavioral health service providers shall accept Tribal court orders from Tribes located within the state on the same basis as state court orders issued under RCW 71.05 or RCW 71.34.

RCW 71.05.337(2) and RCW 71.34.312(2)

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6. Increased Sharing of Behavioral Health Information

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Dual Role of Indian Health Care Providers in Behavioral Health

Indian Health Care Providers (IHCPs)

Providers of health services

Entities with Governmental Authority

Access to Mental Health Records in Crisis Response

Example: IHCPs can receive confidential mental health records without an ROI under certain circumstances such as when the IHCP needs the records to conduct crisis/involuntary treatment services. See RCW 70.02.230

In 2020, the Washington Indian Health Improvement Act, SB 6259, added Indian health care providers to the list of qualified professional persons who are allowed to receive confidential mental health records under certain circumstances.

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Information Sharing with Indian Health Care Providers and Tribal Governments– Generally

Washington state law **requires behavioral health care providers to apply the same federal and state laws and regulations** regarding the sharing of information in the same manner **to IHCPs, Tribal law enforcement, Tribal courts, Tribal prosecuting attorneys, and Tribal public health authorities** as they do for non-IHCPs, state and local law enforcement, courts, prosecuting attorneys, and health departments/public health authorities.

Federal and State Laws for Sharing Health Information with Indian Health Care Providers

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PART IV: Tribal and State Governance Tools

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Tribal Behavioral Health Reform in Washington State

Legislative

- Tribal and state laws

Administrative

- Agency regulations
- Regional BH Agency contracts and subcontractor's clauses
- DCR Protocols, Mobile Team Guidance
- Tribal Crisis Coordination Plans and MOUs
- Facility agreements and guidance

Judicial

- Court forms
- Superior Court Judges Assoc. training

Funding

- Tribal Portions of Crisis System $ (DCR, Mobile Teams)
- Tribal Court reimbursement
- Exploration of AI/AN BHASO for future coordination

PART V: Outcomes & Adjustments

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Discussion Topics

Over Interpretation

- Not fulfilling notice req. doesn't mean the case is thrown out
- Not having a coordination plan published is not a valid reason to not respond to crises at a Tribe

Still More Needed

- Dual certification of DCRs may become more used
- New crisis system resources are standing up regularly and need to connect with Tribal systems
- The narrowest interpretation of regulations sets everyone back

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PART VI: Resources

Resources

- **Navigating a Crisis without a Tribal Crisis Coordination Protocol:** Guidance for how to proceed assisting AI/AN through crisis support when there is not TCCP available for a Tribe
- **HB 1877 Facilities Document:** HB 1877 changes specifically for involuntary crisis and support facilities
- **HB 1877 Privacy Document:** Informational document on privacy and notification in HB 1877 and federal law
- **Tribal DCR FAQ:** Includes roles, responsibilities, and coordination of Tribal DCRs within Washington's behavioral health crisis response system.

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Additional Resources

- Tribal DCR FAQ
- Tribal Crisis Coordination Protocols FAQ/Template
- Native Resource Hub
  - Tribal Crisis Profiles
  - Tribal Crisis Services and Notification Contacts
- HB 1877 Bill
- SB 6259 Bill
- Federal and State Laws for Sharing Health Information with Indian Health Care Providers
- Behavioral Health related Court Forms

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Thank you

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