

1 SB364
2 184858-1
3 By Senator Albritton (N & P)
4 RFD: Local Legislation
5 First Read: 06-APR-17

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Escambia County; to authorize the
14 extradition of a tribal fugitive to the Poarch Band of Creek
15 Indians upon certain conditions; to provide procedures for the
16 extradition of a tribal fugitive; to provide for an
17 extradition proceeding under certain conditions; and to
18 authorize the confinement of a tribal fugitive in a county
19 jail under certain conditions.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. For the purposes of this act, the
22 following terms shall have the following meanings:

23 (1) COUNTY. Escambia County.

24 (2) DISTRICT ATTORNEY. The District Attorney for the
25 21st Judicial Circuit.

1 (3) RESERVATION. The reservation of the tribe or any
2 land held in trust for the tribe by the United States of
3 America.

4 (4) TRIBE. The tribe of Indians recognized as the
5 Poarch Band of Creek Indians by the federal government and by
6 the State of Alabama as a tribal government.

7 (5) TRIBAL FUGITIVE. Any Indian, as defined by
8 Section 5129 of Title 25 of the United States Code, charged
9 with the commission of a crime alleged to have taken place
10 within the reservation, who is not currently within the
11 boundaries of the reservation.

12 Section 2. If a tribal fugitive is found within the
13 county, he or she may be extradited to the tribe as provided
14 for by this act.

15 Section 3. (a) No demand for extradition of a tribal
16 fugitive shall be recognized unless a written request is
17 received by the district attorney.

18 (b) The written request shall contain all of the
19 following:

20 (1) A sworn statement stating that the accused
21 tribal fugitive was alleged to be present on the reservation
22 at the time of the commission of the alleged crime and that
23 the accused tribal fugitive is no longer on the reservation.

24 (2) A copy of an arrest warrant issued for the
25 accused tribal fugitive.

26 (3) A copy of the conviction or sentence imposed, if
27 applicable.

1 (4) A sworn statement that the accused tribal
2 fugitive has broken the terms of bail, probation, or parole,
3 or has been charged with committing a specific offense under
4 the laws of the tribe.

5 (5) Any waiver of extradition validly executed as a
6 bond condition or as a term or condition of parole or
7 probation, if applicable.

8 (6) Any identifying information that may assist law
9 enforcement and the district court judge in a determination of
10 whether the accused tribal fugitive is the person who is
11 sought to be extradited by the tribe.

12 Section 4. If a criminal prosecution has been
13 instituted under the laws of this state against a person
14 demanded by the tribe as a tribal fugitive for extradition,
15 and the prosecution is still pending, the district attorney
16 may either commence extradition or demand that the accused
17 tribal fugitive be held until tried and discharged or
18 convicted and any punishment served.

19 Section 5. If the district attorney complies with
20 the demand for extradition, the district attorney shall submit
21 the documents specified in Section 3 to the district court and
22 the district court judge shall issue a warrant of arrest
23 directed to any law enforcement officer for the arrest of the
24 tribal fugitive.

25 Section 6. The district court judge may call upon
26 the district attorney to investigate the demand for
27 extradition, to report the situation and circumstances of the

1 person so demanded, and to recommend whether the person should
2 be surrendered.

3 Section 7. (a) No tribal fugitive shall be delivered
4 to an agent appointed by the tribe to receive the tribal
5 fugitive until first being taken before the district court
6 judge, who shall inform the accused tribal fugitive of the
7 demand for extradition, the crime charged, and of his or her
8 right to request counsel.

9 (b) (1) If the accused tribal fugitive or his or her
10 counsel state the desire to test the legality of the arrest,
11 the accused tribal fugitive shall be taken before the district
12 court judge within 72 hours for an extradition proceeding.

13 (2) The time and place of the extradition proceeding
14 shall be given by the court conducting the proceeding to the
15 district attorney of the county and to the Office of the
16 Attorney General of the tribe.

17 (c) (1) A formal extradition proceeding under this
18 act may be waived if the accused tribal fugitive making the
19 waiver, knowingly, and in the presence of the district court
20 judge, signs a statement that the accused tribal fugitive
21 consents to return to the demanding authority.

22 (2) Before a waiver under this subsection may be
23 executed, the district court judge shall inform the accused
24 tribal fugitive of his or her rights and the procedures
25 available to him or her under this section.

1 (d) Nothing in this section shall be construed to
2 imply that an accused tribal fugitive is entitled to an
3 attorney at the expense of the state.

4 Section 8. (a) If the district court judge
5 determines the accused person is a tribal fugitive, then the
6 tribal fugitive shall be surrendered to an agent of the tribe.

7 (b) The guilt or innocence of the accused tribal
8 fugitive may not be inquired into by the district court judge
9 in an extradition proceeding except as may be necessary to
10 identify the person held as being the tribal fugitive charged
11 of a crime by the tribe.

12 Section 9. Notwithstanding Sections 5 and 8, a law
13 enforcement or corrections agency in the county holding an
14 accused tribal fugitive may deliver the accused tribal
15 fugitive to the duly accredited agent of the tribe without the
16 requirement of a warrant if both of the following requirements
17 are met:

18 (1) The accused tribal fugitive has signed a prior
19 waiver of extradition in the tribal court of the tribe as a
20 condition of bond, parole, or probation.

21 (2) The law enforcement or corrections agency
22 holding the accused tribal fugitive has received a copy of the
23 prior waiver of extradition and any information identifying
24 the accused tribal fugitive as the person who signed the
25 waiver.

26 Section 10. The law enforcement officer or person
27 executing the warrant of arrest or the agent of the tribe to

1 whom the tribal fugitive may have been delivered, if
2 necessary, may confine the tribal fugitive in a jail of the
3 county and the keeper of the jail shall receive and safely
4 keep the tribal fugitive in accordance with any applicable
5 Memoranda of Understanding between the tribe and the county.

6 Section 11. An extradition proceeding provided for
7 by this act may not interfere with or supersede a formal
8 proceeding under Article 2 of Chapter 9 of Title 15 of the
9 Code of Alabama 1975, relating to extradition by the Governor
10 of Alabama.

11 Section 12. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.