



1995 SENATE BILL 503

January 25, 1996 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on State Government Operations and Corrections.

1 **AN ACT** *to renumber* 992.20; and *to create* 302.446 and 992.20 (2) and (3) of the
2 statutes; **relating to:** authorizing a sheriff and county board to contract with
3 a federally recognized American Indian tribe or band to confine tribal prisoners
4 in the county jail.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the joint legislative council in the bill.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was prepared for the joint legislative council's American Indian study committee.

Under current law, the sheriff and county board of any county may enter into an agreement with the elected governing body of a federally recognized American Indian tribe or band in this state (tribe) to confine *county jail prisoners in a tribal jail*. This bill allows the sheriff and county board of any county to enter into an agreement with a tribe to confine *tribal prisoners in the county jail*. The bill also provides that any agreement between a sheriff and county board and a tribe to confine tribal prisoners in the county jail that was entered into before the date this bill becomes law is validated. Finally, the bill provides that any agreement between a county board and a tribe to confine tribal prisoners in the county jail that was entered into before the date this bill becomes law and that the county sheriff did not sign is validated for the entire period specified in the agreement if the sheriff signs an addendum to the agreement indicating that the sheriff assents to the agreement.

5 **SECTION 1.** 302.446 of the statutes is created to read:

1 **302.446 Confinement of tribal prisoners in county jails.** (1) The county
2 board and the sheriff of any county may enter into an agreement with the elected
3 governing body of a federally recognized American Indian tribe or band in this state
4 for the confinement in the county jail of a person who is being confined for any of the
5 following reasons:

6 (a) The person has been arrested by a tribal law enforcement officer for
7 violating a tribal statute or ordinance.

8 (b) The person has been ordered incarcerated by a tribal court.

9 (c) The person is being held in custody for any cause authorized by tribal law.

10 **(2)** Notwithstanding ss. 302.33 (1), 302.37, 302.38, 302.381, 302.383, 302.41,
11 302.43 and 303.08, the tribe or tribal official designated by the tribe retains
12 responsibility for the prisoners for providing custody, care, treatment, services, leave
13 privileges and food and for determining good time as if they remained tribal
14 prisoners, except that the tribe or tribal official designated by the tribe may delegate,
15 under the agreement, any of the responsibility to the sheriff. The county jail is not
16 subject to any of the requirements for tribal jails unless otherwise provided under
17 the agreement.

NOTE: 1. Provides that a county board and the sheriff may enter into an agreement with a tribe to confine in the county jail persons who have been arrested by a tribal law enforcement officer for violating a tribal statute or ordinance, who have been ordered incarcerated by a tribal court or who are being held in custody for any cause authorized by tribal law.

2. Provides that, notwithstanding ss. 302.33 (1) [maintenance of prisoners in a county jail], 302.37 [providing care of prisoners in a county jail], 302.38 [providing medical care of prisoners in a county jail], 302.381 [providing for emergency services for crisis intervention for prisoners in a county jail], 302.383 [regarding mental health treatment of prisoners in a county jail], 302.41 [relating to care of prisoners in a jail], 302.43 [relating to determining good time for inmates of a county jail] and 303.08 [relating, in pertinent part, to leave privileges and to prisoner liability for charges when in a county jail], the tribe or tribal official designated by the tribe retains responsibility for providing custody, care, treatment, services, leave privileges and food and for determining good time for tribal prisoners in the county jail, but also provides that the

responsibility for providing any of these things may be delegated to the sheriff under the agreement providing for the confinement of tribal prisoners in the county jail.

3. Provides that the county jail is not subject to any of the requirements for tribal jails unless otherwise provided in the agreement providing for the confinement of tribal prisoners in the county jail.

1 **SECTION 2.** 992.20 of the statutes is renumbered 992.20 (1).

2 **SECTION 3.** 992.20 (2) and (3) of the statutes are created to read:

3 992.20 (2) Any agreement entered into before the effective date of this
4 subsection ... [revisor inserts date], between a federally recognized American Indian
5 tribe or band in this state and a county board and sheriff of a county that provides
6 for the confinement of tribal prisoners in the county jail for any of the reasons
7 specified in s. 302.446 (1) (a) to (c) is validated.

8 (3) Any agreement entered into before the effective date of this subsection ...
9 [revisor inserts date], between a federally recognized American Indian tribe or band
10 in this state and a county board that provides for the confinement of tribal prisoners
11 in the county jail for any of the reasons specified in s. 302.446 (1) (a) to (c) and that
12 the sheriff of the county has not signed before the effective date of this subsection ...
13 [revisor inserts date], is validated for the entire period specified in the agreement if
14 the sheriff ratifies the agreement by signing an addendum to the agreement that
15 indicates that the sheriff assents to the agreement.

NOTE: 1. Provides that any agreement between a county board and a sheriff and a tribe providing for the confinement of tribal prisoners in the county jail that was entered into before the date this bill becomes law is validated.

2. Provides that any agreement between a county board and tribe providing for the confinement of tribal prisoners in the county jail that was entered into before the date this bill becomes law and that was not signed by the county sheriff is validated for the entire period specified in the agreement if the sheriff signs an addendum to the agreement indicating that the sheriff assents to the agreement.

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(END)